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Book 18

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## HON. BENJAMIN G. HARRIS.

LETTER

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#### IN ANSWER TO

*Resolution of the House of December 20, transmitting records and testimony  
of the court-martial in the trial of the Hon. B. G. Harris.*

JANUARY 5, 1863.—Referred to the Committee of Elections and ordered to be printed.

WAR DEPARTMENT,  
*Washington City, January 3, 1866.*

SIR: In compliance with a resolution of the House of Representatives, dated December 20, 1865, directing the Secretary of War "to communicate a copy of the record, including the testimony, finding, sentence, and action of the Executive thereon, in the court-martial in the trial of Benjamin G. Harris, a member of the House from the State of Maryland," I have the honor to send herewith the Judge Advocate General's letter of this date, with a copy of the record, &c., called for by the resolution.

I am, sir, very respectfully, your obedient servant,

## EDWIN M. STANTON,

*Secretary of War.*

## Hon. SCHUYLER COLFAX,

*Speaker of the House of Representatives U. S.*

WAR DEPARTMENT, BUREAU OF MILITARY JUSTICE,  
*Washington, D. C., January 3, 1866.*

SIR: In compliance with your indorsement of December 21, 1865, and resolution of the House of Representatives of December 20, 1865, I have the honor to enclose herewith a copy of the court-martial record in the case of Benjamin G. Harris, citizen of Maryland.

Very respectfully, your obedient servant,

J. HOLT, Judge Advocate General.

Hon. E. M. STANTON,  
*Secretary of War.*

## COURT-MARTIAL OF BENJAMIN G. HARRIS.

PROCEEDINGS OF A GENERAL COURT-MARTIAL CONVENED AT WASHINGTON, D. C., BY VIRTUE OF THE FOLLOWING ORDERS:

[Special Orders No. 196.—Extract.]

WAR DEPARTMENT,  
*Adjutant General's Office, Washington, May 1, 1865.*

23. A general court-martial is hereby appointed to meet in this city, at 9 o'clock a. m., on the 2d day of May, 1865, or as soon thereafter as practicable, for the trial of Benjamin G. Harris.

*Detail for the court.*—Major General John G. Parke, United States volunteers; Major General A. A. Humphreys, United States volunteers; Brevet Major General O. M. Wilcox, United States volunteers; Brevet Major General J. A. Rawlins, United States volunteers; Brevet Brigadier General W. W. Morris, United States army, colonel 2d United States artillery; Brevet Brigadier General G. H. Sharp, United States volunteers, colonel 120th New York volunteers; Brevet Colonel T. S. Bowers, major and assistant adjutant general, United States army; Colonel William Gamble, 8th Illinois cavalry; Colonel Charles Albright, 202d Pennsylvania volunteers; Major W. W. Winthrop, judge advocate, judge advocate of the court.

No other officers than those named can be assembled without manifest injury to the service.  
The court will sit without regard to hours.

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By order of the Secretary of War:

W. A. NICHOLS,  
*Assistant Adjutant General.*

Official:

R. WILLIAMS,  
*Assistant Adjutant General.*

[Special Orders No. 196.]

WAR DEPARTMENT,  
*Adjutant General's Office, Washington, May 1, 1865.*

51. The following officers are hereby relieved from duty as members of the general court-martial convened by Special Orders No. 196, May 1, 1865, from this office, and of which Major General J. G. Parke, United States volunteers, is president:

Brevet Brigadier General W. W. Morris, United States army, colonel 2d United States artillery; Brevet Colonel T. S. Bowers, major and assistant adjutant general, United States army.

52. The following officers are hereby detailed as members of the general court-martial convened by Special Orders No. 196, May 1, 1865, from this office, and of which Major W. W. Winthrop is judge advocate:

Major General J. G. Foster, United States volunteers; Brigadier General J. A. Haskin, United States volunteers; Lieutenant Colonel O. E. Babcock, aide-de-camp, captain United States engineers.

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By order of the Secretary of War:

W. A. NICHOLS,  
*Assistant Adjutant General.*

Official:

R. WILLIAMS,  
*Assistant Adjutant General.*

WASHINGTON, D. C., May 2, 1865.

The court met pursuant to the foregoing orders.

Present: Major General J. G. Foster, United States volunteers; Major General John G. Parke, United States volunteers; Brevet Major General O. M. Wilcox, United States volunteers; Brigadier General J. A. Haskin, United States volunteers; Brevet Brigadier General G. H. Sharp, United States volunteers; Colonel William Gamble, 8th Illinois cavalry; Colonel Charles Albright, 202d Pennsylvania volunteers; Lieutenant Colonel O. E. Babcock, aide-de-camp, and captain engineer corps United States army; Major W. W. Winthrop, judge advocate.

Absent: Major General A. A. Humphreys, United States volunteers; Brevet Major General John A. Rawlins, United States volunteers.

The court then proceeded to the trial of Benjamin G. Harris, a citizen of Maryland, and a member of the Congress of the United States, who was called into court, and having heard read the foregoing orders, was asked if he had any objection to any member therein named. To this he replied in the negative.

The members of the court were then severally duly sworn by the judge advocate, in the presence of the accused, and the judge advocate was duly sworn by the president of the court, in the presence of the accused.

R. R. Hitt was duly sworn as reporter, in the presence of the accused.

The judge advocate having inquired of the accused if he was ready to proceed with the trial, he replied in the affirmative.

The judge advocate having inquired of the accused if he desired now to introduce counsel, he replied that he did not, but might hereafter, during the progress of the trial, desire to introduce counsel.

The judge advocate stated to the accused that he could at any stage of the case make such application, when it would be considered by the court.

The accused, Benjamin G. Harris, a citizen of Maryland and a member of the Congress of the United States, was arraigned on the following charge and specifications:

*Charge.*—Violation of the fifty-sixth article of war.

*Specification I.*—In this: that Benjamin G. Harris, a citizen of Maryland and a member of the Congress of the United States, did relieve with money, to wit, the sum of two dollars, the public enemy, to wit, Sergeant Richard Chapman and Private William Read, of company K, 32d regiment Virginia infantry, soldiers of the army of the so-called Confederate States of America, then in rebellion against and at war with the United States; he the said Harris then and there well knowing said Chapman and Read to be soldiers of said army, and treating and offering to relieve them as such, and at the same time advising and inciting them to continue in said army and to make war against the United States, and emphatically declaring his sympathy with the enemy and his opposition to the government of the United States in its efforts to suppress the rebellion. This at or near Leonardtown, St. Mary's county, Maryland, on or about April 26, 1865.

*Specification II.*—In this: that Benjamin G. Harris, a citizen of Maryland and a member of the Congress of the United States, did knowingly harbor and protect the public enemy, to wit, Sergeant Richard Chapman and Private William Read, of company K, 32d regiment Virginia infantry, soldiers of the army of the so-called Confederate States of America, then in rebellion against and at war with the United States, by procuring them to be lodged and fed in a private house and furnishing them with money therefor; he the said Harris then and there well knowing said Chapman and Read to be soldiers of said army, and treating them, and offering and giving them money as such, and at the same time advising and inciting them to continue in said army and to make war against the United States, and emphatically declaring his sympathy with the enemy and his opposition to the government of the United States in its efforts to suppress the rebellion. This at or near Leonardtown, St. Mary's county, Maryland, on or about April 26, 1865.

W. W. WINTHROP,  
*Major and Judge Advocate, Judge Advocate Gen'l C. M.*

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To which charge and specifications the accused pleaded as follows:

To the first specification of the charge, not guilty; to the second specification of the charge, not guilty; to the charge, not guilty.

The judge advocate then proceeded to open the case for the prosecution by calling Richard Chapman as a witness.

Richard Chapman, a witness called for the prosecution, being duly sworn, testified as follows:

By the judge advocate:

Question. State your name, rank, and occupation.

Answer. Richard Chapman; first sergeant company K, 32d Virginia regiment of infantry, confederate army.

Question. Were you in the State of Maryland on or about the 26th day of last month?

Answer. Yes, sir, I believe I was. I am not certain of the exact date.

Question. Did you at that time have an interview with the accused, Benjamin G. Harris?

Answer. I did.

Question. State fully everything that occurred at that interview, giving time, place, and all that was said and done.

Answer. I left Major Waite's headquarters at the hotel at Leonardtown, St. Mary's county, Maryland, about six o'clock in the evening of—I cannot tell what day of the month, but it was

last week, and was on or about the 26th of April, and went from there to Mr. Harris's house. I went into his yard or lawn, and as I entered the path or way through the lawn he walked down through the lawn. He was under a tree there, and asked who was there? I told him it was a friend. Mr. William H. Read, of the 32d Virginia infantry, confederate army, who is here, was with me. I asked the accused if we could stay all night there. He said that he would prefer giving us some money, and letting us go to the hotel and stay there. I told him that we were paroled prisoners of the army of northern Virginia.

Question. The rebel army?

Answer. Yes, sir.

Question. What reason did he give, if any, for not taking you into his house?

Answer. He said it was because the Yankees had their eyes on him, and were taking everything he had, and therefore he did not wish to keep us.

Question. Did he say anything about being a member of Congress?

Answer. Yes, sir; he said he was a member of Congress.

Question. Did he state whether that was any reason why he should not take you into his house?

Answer. I do not remember that he did. He said that he was a member of Congress, that the Yankees had taken what he had, and he did not wish to take us into his house. He said he would give me the money and I could go to the hotel if I wished to. I was then on my way to Mr. Clark's, and if I did not wish to go to the hotel I could go to Mr. Clark's. That is a private house in the neighborhood, about three miles further on.

Question. What money did he give you?

Answer. He gave me a dollar and he gave Mr. Read one dollar. I told him then that I wanted to go home very badly, and I would go home if I had to take the oath of allegiance. My home is in the city of Baltimore. He told me I could go home on parole. I told him there was an order in the newspapers against going home without taking the oath. He said it was not so. I told him I was confident of it; that I had seen it in the paper. Then he went on and said paroled prisoners ought to go home any way, and if General Grant did not allow them to go home he was a damned rascal. From that, in talking, the young man with me, Mr. Read, spoke about the death of the President, and Mr. Read remarked, "it was too late to kill him now." The accused said, "it was no use to kill him now; that it was too late." I remarked that I wished Jeff. Davis was alongside of President Lincoln. He said, no; that Jeff. Davis was a great man, and a gentleman in every respect. He said that he always had been, and was, in favor of the south, and that the cause of the southern confederacy was just. He said a great deal that I cannot remember, that I was not paying much attention to He told me not to take the oath of allegiance, but be exchanged and go back and fight them again.

Question. Who did he mean by "them?"

Answer. The federal government, I suppose.

Question. Do you recollect anything else that occurred?

Answer. There was something spoken about Booth. Mr. Read said he wished he could catch him, or something like that; I do not remember what it was now.

Question. Was anything said by Mr. Harris in reply to that, that you recollect?

Answer. No, sir.

Question. Have you stated all that you now remember of what occurred?

Answer. Yes, sir.

Question. Did you ask him for this money?

Answer. No, sir.

Question. How came it to be given to you?

Answer. I went there to stay all night, and he gave it to me voluntarily.

Question. Did Mr. Read ask for it in your presence?

Answer. No, sir; neither one of us asked for it.

Question. You say he advised you not to take the oath. Did he speak of any other officers or soldiers in that region taking the oath?

Answer. Yes, sir; he spoke of several in Leonardtown that he would bet high would not take the oath, and he mentioned one Lieutenant Wilson.

Question. Was this said in connexion with advising you not to take the oath of allegiance?

Answer. Yes, sir.

Question. And he alluded to those others as men who would not take the oath?

Answer. Yes, sir.

Question. And advised you to do the same thing?

Answer. Yes, sir.

Cross-examined by the accused:

Question. Did you see me in the morning of that same day?

Answer. Yes, sir.

Question. I was with my hands, near the road, at work?

Answer. Yes, sir; they were in the field at work, I reckon about one hundred yards from the road.

Question. You went in and saw me there in the morning?

Answer. Yes, sir.

Question. You had on clothing that showed you were a soldier?

Answer. I had on a captain's coat.

Question. You told me you were a paroled prisoner?

Answer. I did, sir.

Question. And you pulled out your parole and showed it to me?

Answer. I did so.

Question. Did I not say it was all right?

Answer. You said I would be allowed to go anywhere on that parole.

Question. Read had not his parole, but had lost his?

Answer. He had.

Question. And I told him that he would have to prove that he was a paroled prisoner?

Answer. I do not remember anything of that.

Question. Did I not tell you to go to Leonardtown and see Major Waite?

Answer. I asked you the way to Leonardtown, and you said, "Go down one hill and up another, and Leonardtown was there." I do not remember you telling me about the major. You told me about a man named Willoughby.

Question. Captain Willoughby was under the major there. Did I not tell you he had looked at the prisoners and let them go?

Answer. Yes, sir.

Question. You then went on to Leonardtown according to my directions?

Answer. Yes, sir.

Question. In the evening you called at my house, as you say, after dusk, was it not?

Answer. Yes, sir.

Question. How came you to leave Leonardtown?

Answer. I got a verbal permission from Major Waite to go out to Mr. Clark's to stay all night and report to Major Waite for orders, and as I got out of town it was too dark to go out there, and too far, so I stopped at your house to see if I could get lodgings there, and you declined giving it to me, but you gave me this money to go back to the hotel.

Question. To Major Waite's hotel?

Answer. It was the hotel. There are several hotels there.

Question. Have you that permit with you that Major Waite gave you?

Answer. Mr. Read has it. It did not belong to me.

Question. It was a pass to allow you to leave town to go out in the country and lodge, was it not?

Answer. No, sir; it was a permit to go out to Mr. Clark's and remain there.

Question. This was at night, and you were going to lodge there?

Answer. Yes, sir.

Question. You called at my house, it being rather late, and did not you or Read offer to show me the pass?

Answer. Mr. Read offered to show you his.

Question. Was it a pass for both of you?

Answer. No, sir; for him. I had my parole, and he had that in place of his parole. He could not go without some papers, and Major Waite gave him that.

Question. He gave you both permission to go out in the country and lodge?

Answer. Yes, sir; he gave us that permission.

Question. And in the country you came and stopped at my house?

Answer. Yes, sir.

Question. When you came up to me you said you would like to stay all night, did you not?

Answer. I did.

Question. Did I not tell you I could not accommodate you; that I would rather give you money to pay for your lodging, and as you had permission you could go and lodge elsewhere?

Answer. You hesitated a moment, and said you did not know what to do; that the Yankees had their eye upon you; that you would prefer giving me some money, and that we could go back to the hotel.

Question. You said you had no money?

Answer. Yes, sir.

Question. And I gave you a dollar apiece in order to pay for your lodging at the hotel?

Answer. Yes, sir.

Question. Did you not tell me you did not want to take the oath?

Answer. No, sir; I did not tell you anything like that.

Question. Did you not tell me in the morning you did not want to take the oath?

Answer. No, sir; I told you I would prefer going home on my parole. I did not say I did not want to take the oath.

Question. Did I not tell you, then, that I thought you could go home upon your parole?

Answer. Yes, sir; you told me I could go on it.

Question. When did you get into St. Mary's county?

Answer. I got into St. Mary's county on Monday night, a week ago last Monday.

Question. Where did you land?

Answer. I cannot tell you where I did land, for I am not acquainted with the geography of the country, but somewhere near Smith's creek, opposite Ragged Point, on the Virginia side.

Question. You had never been to Leonardtown before?

Answer. No, sir.

Question. You had never seen Major Waite before?

Answer. No, sir; I was an entire stranger to him until I had met him that evening.

Question. I gave it to you as my opinion that you could go to your home, you being a paroled prisoner?

Answer. You said I could go home on my parole without taking the oath of allegiance, and, moreover, you advised me not to take the oath of allegiance.

Question. What did you say I said in regard to General Grant?

Answer. You said if General Grant did not let the prisoners go home on their parole, that he was a damned rascal. I took particular notice of that word, and I am confident of it.

Question. When did you tell Major Waite this?

Answer. I told him nothing at all. A sergeant overheard this conversation and reported it.

Question. What conversation?

Answer. The conversation that passed between the three of us. I met him when I came out at the gate. He is a sergeant who belongs at Leonardtown there.

Question. What three were they?

Answer. Mr. Read, you, and myself.

Question. He overheard the conversation?

Answer. Yes, sir.

Question. Where was the sergeant?

Answer. I don't know. I met him at the gate, and he said, "I have heard the conversation that has passed between you and Mr. Harris," and he mentioned the words that "General Grant was a damned rascal," and therefore I just told him what had passed between us, and he went down to Major Waite and reported it. Major Waite called me up next morning, and asked me what conversation passed between us, and I just told the plain truth as near as I could.

Question. Did you know that sergeant?

Answer. I know him by sight.

Question. Did you know he was there while the conversation was going on?

Answer. No, sir.

Question. What sergeant was it?

Answer. I could not tell you his name. He belongs to the 11th regiment Veteran Reserve Corps.

Question. How far is the gate from where we were talking?

Answer. Three or four hundred yards.

Question. It was there you met the sergeant?

Answer. Yes, sir: I saw him in the yard before I got to the gate as we returned, and when I got to the gate he was at the gate.

Question. You never found out who he was?

Answer. No, sir. He was a cavalry sergeant; he wore three stripes and a diamond.

Question. What did Major Waite say when you told him this?

Answer. He asked me if I would make an affidavit to what I had said. I told him certainly, and I did so.

Question. Had you had no conversation with any one before that as to your intention to visit my place?

Answer. No, sir.

Question. I think you said in the conversation that you had lost five brothers in the confederate service since the evacuation of Richmond?

Answer. Yes, sir; we told you I had lost five brothers since the evacuation of Richmond and Petersburg, of which two were killed at Amelia Court House, and three at Rice's Station.

Question. I told you not to take the oath, you say, but to be exchanged, and go back and fight them?

Answer. "Fight them again," you said.

Question. Was it not a general remark among us all that the confederacy was broken up, and was not that the statement made?

Answer. No, sir; no such statement.

Question. You say I said it was too late to kill Mr. Lincoln: what could have been the meaning of that?

Answer. Yes, sir; you said it was too late to kill him now.

Question. You say I gave you the money voluntarily?

Answer. Yes, sir.

Question. Did not you say you had no money when you said you had to go back, and did not I give you money to buy lodgings when I gave you the money?

Answer. I told you I had nothing but confederate money: you said you would prefer giving me some money, and for me to go back to the hotel and stay.

Question. Rather than accommodate you at my house?

Answer. Yes, sir.

Question. Who gave you the coat that you have on now?

Answer. Major Waite gave me this coat.

Question. Did you take the oath of allegiance?

Answer. No, sir; I have not yet.

Question. Did Major Waite say that you had served him well?

Answer. No, sir.

Question. Did you see the sergeant again?

Answer. Yes, sir; several times.

Question. You had no instructions whatever to go to my house and enter into any conversation with me?

Answer. None at all. I was an entire stranger to you, and you to me, before that day.

Question. Can you form any idea or give any reason for that sergeant being there?

Answer. No, sir; none at all.

Question. You had a pass to go out in the country?

Answer. I had a parole. Mr. Read had a paroled prisoner's pass.

Question. How came Major Waite to give you that coat?

Answer. I could not tell you; I had a military coat on, a captain's coat, and he said it was against the rules to wear a rebel uniform in the federal lines, and I had to get rid of that coat. I told him I had no other, and if I took off that coat I would have to go in my shirt-sleeves. He told the orderly to go and get a coat somewhere, I do not know where, and he went and brought back this coat, and gave it to me.

Question. Was that before or after you had given this conversation?

Answer. It was afterwards. He told me before I had given this information that I had to get rid of that other coat I had on.

By the judge advocate:

Question. State precisely what was said in regard to this money, and how it came to be offered or paid to you.

Answer. I came to Mr. Harris, the accused, and asked him if I could get to stay there that night—two of us. He looked towards the house, hesitated about five minutes, and said that he did not want to keep us, for the Yankees had their eyes on him, and had taken everything from him that he had, and that he would prefer giving us some money to go back to the hotel and stay. I told him all the money I had was confederate money.

Question. Did you tell him that all the money you had was confederate money before or after he offered to give you the other money?

Answer. That was after he had offered me money.

By the accused:

Question. You said you had no money?

Answer. I said I had nothing but confederate money.

Question. Do you mean that I offered you money before I knew that you had none?

Answer. You offered me money before I told you that all I had was confederate money.

Question. Had not you said you had no money?

Answer. No, sir; not a word.

Question. Did I offer you money without your notifying me that you had none?

Answer. Yes, sir.

By the judge advocate:

Question. Do you say it was a voluntary act on the part of the accused to offer you money?

Answer. Yes, sir; it was.

Question. Did you not tell him previously that you had no money?

Answer. I did not.

Question. Where did you lodge that night?

Answer. I am not acquainted with the man where I lodged. I crossed over a little branch by a mill, and it was the first house as I got up on the hill; I do not know his name; it is the first house on the right-hand side going out to Mr. Harris's, and about a mile and a half further on; it is the first house on the right-hand side after passing his house going out to a place—I do not know what place; there is a fork in the road there.

Question. Was it Mr. Clark's house?

Answer. No, sir.

Question. Do you say he told you to go to Leonardtown in the morning and see anybody—any officer?

Answer. No, sir; that was in the morning that he told me to go to Leonardtown and see Captain Willoughby, who was in command of the post. I met him about ten o'clock, I reckon, as I was on my way to Leonardtown first.

Question. How came you to tell him that you had lost five brothers in the confederate service?

Answer. I do not know how it came on. I believe he asked me how long I had been in the war. I could not say, for certain, whether he asked me that or not; it seems to me he did, and I told him four years; and then I remarked that I had lost five brothers since the evacuation of Petersburg.

By the court:

Question. How came you to enter the confederate service?

Answer. I was in Virginia when the war broke out.

Question. What part of Virginia?

Answer. In the city of Richmond.

Question. Did you volunteer?

Answer. Yes, sir; I volunteered.

Question. How long ago?

Answer. On the 20th of July, 1861.

Question. What was your regiment?

Answer. The thirty-second Virginia infantry.

Question. Did you remain in that regiment all the time until you were paroled?

Answer. Yes, sir; except a short time that I was detailed.

Question. Were your brothers with you in the regiment?

Answer. Yes, sir; in the same company.

Question. Were they there when you volunteered?

Answer. No, sir; they volunteered in 1862. They left the city of Baltimore and came there.

Question. Did you write for them?

Answer. No, sir.

Question. What kind of money was this that was given to you by the accused?

Answer. It was small notes; twenty-five cent notes, United States money.

By the judge advocate:

Question. State precisely what was said in regard to your going to Leonardtown to see this person, and if any purpose was mentioned for which you were to see him.

Answer. I showed him the parole when I came up to him, and told him this man, Read, had lost his parole; and he told me Major Waite was in command of the post at Leonardtown, and I could go and see him. It was not mentioned for what purpose we were to go there. He merely told us who was in command of the post—Captain Willoughby. He asked me if he did not tell me to go to Major Waite; but I did not hear him say so. He told me to go to Captain Willoughby.

By the accused:

Question. Major Waite is the superior officer in command there, and Captain Willoughby is under him?

Answer. Yes, sir.

The witness was then dismissed.

The accused stated that he desired to reserve one exception; that he here notified the judge advocate that he would reserve a motion to be hereafter made to exclude the testimony of the witnesses Chapman and Read, as they were the public enemies of the United States, and their statements were not evidence against a citizen of the State of Maryland.

The judge advocate replied that when the point was formally raised he would state his view of it.

William Read, a witness called by the prosecution, being duly sworn, testified as follows:

By the judge advocate:

Question. State your name, rank, and occupation.

Answer. William Read, private, company K, 32d Virginia infantry, confederate army.

Question. Where were you on or about the 26th of last month—April?

Answer. I could not say where I was at that time. I was at Leonardtown last month and last week, but I could not state the exact date of the month.

Question. Did you have an interview with the accused at that time?

Answer. I did.

Question. About what day was this?

Answer. I reckon it was on Wednesday or Thursday—somewhere last week, I do not recollect exactly the day.

Question. State where this interview took place.

Answer. It took place on the lawn in front of Mr. Harris's house.

Question. With whom was that interview?

Answer. With Mr. Harris, the accused, myself and Sergeant Richard Chapman, company K, 32d infantry, confederate army.

Question. State fully and precisely what occurred at that interview.

Answer. We came to Leonardtown and reported to Major Waite, so that we could take the oath of allegiance and go home. We had heard we could not go home and live in Maryland without it. So we reported to him to take the oath of allegiance. We stayed there all the afternoon, and when he came he told us we could take the oath of allegiance if we wished to, but he could not force us to take it if we did not wish to. I told him I wanted to take it, and urged taking it upon him. Then he gave me a pass to go out of town to Mr.

Clarke's—I reckon that was three miles out of town. We stopped at Mr. Harris's house, and thought we would not go to Mr. Clarke's, but would stay there all night. Mr. Harris said they had a "holt" on him there, and he did not want to keep us there that night, for he did not want to get into any trouble. He said he did not want us to stay there, for they would get hold of him, and he did not want to get into any trouble; and so he gave us a dollar apiece to go to the hotel and stay. He said we could go to the hotel or go on, just as we were a mind to, to Mr. Clarke's, or any of the neighbors', and stay.

Question. Did you tell him who and what you were?

Answer. Yes, sir: we told him we belonged to the 32d Virginia regiment, confederate army. We told him we were going to take the oath of allegiance. He wanted to know if Major Waite was going to make us take it. We told him no. He said they could not compel us to take it; that we could go home on our parole; he said General Grant had issued that order. We told him we had seen in the paper that we could not. He said for us not to take the oath of allegiance, but to go home and go back again and fight them again.

Question. Fight who?

Answer. He did not say who. I stuck out about taking the oath of allegiance; he did not talk much to me, and so I did not have much to say about it. I told him, furthermore, if it had not been for Booth we could have got home long ago. He said "yes," Booth was the cause of it. I said I would like to catch him; he said it was too late to kill the man then.

Question. What man?

Answer. He did not say what man: he said he had been in favor of the southern confederacy, and believed its cause was just: that is all I recollect.

Question. Did he state whether he was a member of Congress?

Answer. Yes, he told me that in the morning when I asked him the road to Leonardtown; it was almost noon when I asked him the road, and he said then that he was a member of Congress.

Question. In what connexion did he say that?

Answer. I do not know how he came to say that. He told us, furthermore, that if Grant did not let us go home—allow me to use the word—that he was a damned rascal. I told him that I saw in the paper that where a man left Maryland, leaving a loyal State, he could not return without taking the oath of allegiance: we saw that in the paper; it was an order.

Question. From whom?

Answer. I do not know who issued the order: I saw it in the paper.

Question. Was any one else present except Sergeant Chapman?

Answer. No, sir; I did not see anybody.

Question. Where did you stay that night?

Answer. I could not tell you the man's name; we went, I reckon about a mile and a half further.

Question. Did you pay for your lodging?

Answer. Yes, sir.

Question. Did you pay for it with this money that Mr. Harris gave you?

Answer. Yes, sir.

Question. What kind of money was that?

Answer. It was federal money—small scrip; there were twenty-five-cent pieces, I reckon.

Question. What did Mr. Harris say in regard to his feelings towards the south?

Answer. He said that he always was in favor of the southern confederacy; he believed their cause was just.

Cross-examined by the accused:

Question. Do you say you saw an order?

Answer. Yes, sir.

Question. What paper was it in?

Answer. I can't tell you: I never looked at that.

Question. What time did that order come?

Answer. I cannot say: Mr. Chapman read the paper in the afternoon about four o'clock; I did not read it; he showed it to me.

Question. Can you read?

Answer. No, sir.

Question. How do you know it was an order?

Answer. I heard it; he showed it to me, and read it to me; I do not think Mr. Chapman read false: and the major read it to me, too, from a newspaper that evening when the major came there.

Question. Where did he get it?

Answer. I cannot tell where he got the paper.

Question. What date was it?

Answer. I do not know; but he read it out of the paper, Major Waite did, and showed it to Mr. Chapman, and the next morning, as you rode by, when we came back into Leonardtown, you said you had seen it in the paper yourself. You said, "Good morning, gentlemen;" and then said you did see that order in the paper.

Question. Did I have any further conversation with you in the morning?

Answer. Only that you saw the paper.

Question. Did I not say "You are right ; I did see the order in the paper?"

Answer. I do not remember your saying so.

Question. You say Major Waite told you you were not obliged to take the oath—that you were paroled?

Answer. Yes, sir : he said we were not obliged to take the oath ; that he could not compel us to take it.

Question. Did he refuse to administer it to you?

Answer. No, sir ; I believe he said he could not—that he would have to send us to Washington to do that.

Question. Did Major Waite give you permission to go to the country?

Answer. Yes, sir ; I showed you this paper that night.

Question. And it was too dark to read?

Answer. Yes, sir.

Question. You had permission to go to the country and get lodging?

Answer. I had this.

The witness here produces and the accused offers in evidence the following paper :

"HEADQUARTERS, LEONARDTOWN, MARYLAND. April 26, 1865.

"The bearer, William Read, a paroled soldier from army northern Virginia, has permission to go to Mr. Clarke's, three miles from Leonardtown, to be subject to orders from these headquarters.

"JOHN M. WAITE,

"Major Commanding."

Question. You say you attempted to show me that, and it was too dark to read?

Answer. Yes, sir.

Question. Major Waite had given you permission to go and take lodgings in the country?

Answer. Yes, sir ; we said it was most too far to go to Mr. Clarke's that night, and we were tired, and we would go there and stay all night.

Question. You did not read me that order?

Answer. No, sir.

Question. Nor did I read it?

Answer. No, sir.

Question. You presented it, saying that you had permission to go to Mr. Clarke's and lodge?

Answer. Yes, sir ; you took it in your hands and said you could not read it.

By the judge advocate:

Question. Did you not say you had permission to go to Mr. Clarke's in accordance with this pass?

Answer. Yes, sir ; that was all.

By the accused:

Question. Did you say that, or did you say he told you to go to the country and get lodging?

Answer. I told you we had permission to go to Mr. Clarke's and await orders there.

Question. Did you await orders there?

Answer. No, sir : we went back to Leonardtown and reported.

Question. Could you not have reported if you had stayed at my house?

Answer. Yes, sir.

Question. Why, if you had permission to go only to Mr. Clarke's, did you come to me?

Answer. I did not know you lived there : I did not know who lived in that house.

Question. You knew Mr. Clarke did not live there?

Answer. Yes, sir.

Question. Why did you go to that house, then?

Answer. Because I did not want to walk the three miles more that night.

Question. You wanted the owner of that house to accommodate you with lodging, and you asked me to lodge you?

Answer. I did not ask you : Mr. Chapman did.

Question. You assented?

Answer. Yes, sir.

Question. Did I not refuse?

Answer. Yes, sir : you said they had a hold of you there and you did not want to get into any trouble, and you would give us a dollar apiece to go on and stop where we chose—at Mr. Clarke's or somewhere else.

Question. You said you had no money?

Answer. Yes, sir ; you gave us a dollar apiece ; there was nothing said about money until you gave it to us.

Question. I volunteered it?

Answer. Yes, sir ; you said you could not lodge us, but you gave us some money to go to Mr. Clarke's, or to stop somewhere else, as we saw fit.

Question. Are you certain I offered you money before anything was said about money?

Answer. Yes, sir; you were the first man to speak about it.

Question. I told you in the morning to go and report?

Answer. No, sir; when you came along in the morning, you said, "Good morning; I saw that in the paper."

Question. But on the morning before did I not tell you to report to Leonardtown?

Answer. No, sir; you said not to go to Leonardtown; you told us how far it was, down one hill and up another, but not to go and report; not only you, but another man whom we met on the road, told us that. You did not state what the reason was, why we should not go.

Question. I did not tell you to go and report to either Major Waite or Captain Wiloughby?

Answer. No, sir; you did not tell me so; and I did not hear you tell Chapman.

Question. I told you the way?

Answer. Yes, sir; you told us, up one hill and down another.

Question. Down one hill and up another?

Answer. Yes, sir.

Question. You went in that direction?

Answer. Yes, sir.

Question. You say I said you were not obliged to take the oath?

Answer. Yes, sir.

Question. Major Waite told you so too?

Answer. Yes, sir; he told us he could not compel us to take the oath without we chose to. I insisted upon taking it, and told you so that night.

Question. Have you taken the oath?

Answer. No, sir.

Question. Why?

Answer. They have not administered it to us yet; as quick as they do that I will take the oath.

Question. Did Major Waite say anything to you about your going out to see me and my house?

Answer. No, sir.

Question. Did you tell anybody you were going to my house?

Answer. No, sir; I did not know who lived in that house.

Question. Who did you first communicate your information to?

Answer. To Major Waite; he called us in. The sergeant overheard our conversation.

Mr. Chapman and I were talking together and he overheard it, and reported to Major Waite.

Question. Where were you talking?

Answer. On the corner of the steps of the store at Leonardtown.

Question. You did not tell the sergeant anything about it the night before?

Answer. No, sir; we did not go to town the night before.

Question. You did not see him the night before?

Answer. No, sir.

Question. The sergeant was not in my lawn the night before, was he?

Answer. I do not know, sir.

Question. You did not see him in my lawn, or at the gate that led to it?

Answer. No, sir.

Question. Were you and Chapman together when you went out?

Answer. Yes, sir; we were side by side.

Question. You did not see any one at the gate?

Answer. No, sir.

Question. You saw no officer nor soldier in the lawn at all?

Answer. No, sir.

Question. He never overheard anything you had to say until you were talking at the store steps?

Answer. That is where I first knew that they knew anything about it. It was when they called Chapman to one side when we were talking together, and what he told them I could not say. The major talked to me after he had talked to Chapman, and I stated what I had to say.

Question. You are very confident that this was on the store steps that this was overheard?

Answer. That is where we were talking about it, and that is where the sergeant called Mr. Chapman to one side.

Question. Be particular about that—you never saw any sergeant nor soldier in my lawn?

Answer. No, sir; I did not.

Question. There was none there?

Answer. Not to my knowledge.

Question. What were you talking about at the store steps?

Answer. When you came across from leaving your horse—I supposed you came from leaving your horse, as you were on your horse when passing the hotel—I said to Mr. Chapman, "There is certainly a hot-headed man." I meant secesh by that. Mr. Chapman said,

"Yes, he is," and he wanted to know what I supposed you gave us the dollar apiece for. At that the sergeant came and called us to one side.

Question. You talked that pretty loud?

Answer. No, sir—to ourselves. We did not see anybody around when we were talking about it at the time.

Question. Where do you live at home?

Answer. I have no home now. I did live in Baltimore before the war broke out—my folks did.

Question. Where did you go when you crossed the water?

Answer. To the State of Virginia.

Question. But when you came this way—were you going to Baltimore?

Answer. Yes, sir; to Baltimore.

Question. You say I told you not to go to Leonardtown?

Answer. Yes, sir; you did.

Question. How much did you pay for your lodging?

Answer. Half a dollar.

By the judge advocate:

Question. Did you have anything more than lodging?

Answer. No, sir.

Question. Did you take breakfast?

Answer. No, sir; we got something to eat in the town when we came back. We got breakfast at a negro's on the hill that morning before we went into town. That man lives on part of Mr. Harris's farm. We took breakfast there. It is on the same road that Mr. Harris's house is. I cannot tell how far it is from Mr. Harris's house.

Question. How much did you pay for your breakfast?

Answer. A quarter of a dollar apiece.

Question. Was that part of the money that Mr. Harris gave you?

Answer. Yes, sir; we had only confederate money besides that.

Question. You did not get supper anywhere?

Answer. No, sir.

By the court:

Question. Why did you start to go to Mr. Clarke's?

Answer. We went there to stay at Mr. Clarke's until the major could send us to Washington. We had stopped at Mr. Clarke's the night before, and knew some soldiers in the army who were there.

Question. You say the Union sergeant overheard you talking on the store steps?

Answer. Yes, sir.

Question. Where is that store?

Answer. On the same side of the street in Leonardtown with the hotel that Major Waite stops at.

Question. How far from Mr. Harris's house?

Answer. I should judge about half a mile. His residence is out of town. We walked it very quick.

Question. Was it dark when you had the conversation with Mr. Harris the evening before?

Answer. Yes, sir.

Question. Were there a good many trees about Mr. Harris's place?

Answer. Yes, sir; we were about the centre of the lawn, I reckon, by the looks of it.

Question. Are they shrubs—small trees—for ornament in the yard?

Answer. No, sir; they are right large trees, some of them.

Question. How close together?

Answer. I did not take notice enough to tell how close they were together.

Question. How far were you standing from the gate where it leads out to the road when you were talking with Mr. Harris?

Answer. I do not know. We were, I should judge, about a hundred yards from the house. I did not notice, but I reckon we were further from the gate than the house.

Question. Did the road run by the grounds in front?

Answer. Yes, sir, by the front of the gate.

Question. How came you in the grounds?

Answer. We went through the gate and were going up to the house.

Question. You were not taking a short cut across it?

Answer. No, sir; we did not know the country and did not know any short cuts to go.

Question. Were the trees on the lawn alongside of this avenue leading up to the house?

Answer. Yes, sir. There was a gravel walk on both sides of the lawn.

Question. Did trees border both of those walks?

Answer. Yes, sir; I reckon they did. When we went up on one side Mr. Harris wanted to know who was there. We said friends. Then we both crossed and met in the centre of the lawn, and he knew who we were. We had seen him in the morning.

Question. Did you see him at this time until he called to you?

Answer. No, sir.

Question. Had you any difficulty in seeing him?

Answer. Not after he spoke.

Question. How far off was he when he spoke?

Answer. About fifteen yards, I reckon.

Question. When you saw him, how far off was he?

Answer. He had just stepped upon the lawn; not more than eight yards from us, I think. We were close together.

Richard Chapman, a witness for the prosecution, was recalled by the judge advocate, and testified as follows:

By the judge advocate:

Question. When you spoke with this sergeant of the 11th Veteran Reserve Corps, in the evening, after your conversation with Mr. Harris, was Read with you?

Answer. No, sir; he had gone down the hill—down the road. There is a kind of down grade there. The sergeant said he wanted to see me a minute. I stopped there, and he said, "I heard that conversation between you all and Mr. Harris." I said, "What conversation?" He said, "That where he said that General Grant was a damned rascal." Then I knew that he knew something about it, and I had to tell him what was said. Mr. Read had then gone down the hill.

Question. Was it dark?

Answer. Yes, sir.

Question. When was the first time when Read to your knowledge saw the sergeant?

Answer. The first time I know of Mr. Read's seeing him was while I was sitting on a porch, and the sergeant came along and said, "I should like to see you;" and that was the next morning. He touched me on the shoulder and took me behind the store and spoke to me, and in a few minutes Major Waite called me, and I went in and stated what passed.

Cross-examined by the accused:

Question. When did you meet the sergeant?

Answer. I saw somebody at the gate when we were going out from the lawn.

Question. Did you not say you saw him before you got to the gate?

Answer. Yes, sir, before I got out of the gate in your yard.

Question. How far from where we had the conversation was it before you saw the sergeant?

Answer. I saw him within four or five steps from the gate. I was in advance. Read was behind me, and I saw some one go out of the gate, and when I got out Read went down the hill and said we had better walk faster. It was then getting dark, and this sergeant tapped me on the shoulder. I had seen him before in Leonardtown. He said he had heard the conversation that passed between us, and then remarked what you had said about General Grant, and then I told him what had passed. Read was not present.

Question. Did you tell Read that the sergeant had seen you at the gate?

Answer. I told him the next morning.

Question. Did you tell him directly?

Answer. No, sir. I did not say anything to him about it then.

Question. I understood you to say that very soon after we parted, and you went back up the lawn, you saw the sergeant?

Answer. As I went towards the road out of the gate, I stopped to fasten the gate and Read went on. I saw the sergeant when he was about ten steps from the gate in the yard, and as he went out I stopped to fasten the gate, and Read went on down the road and we stopped.

Question. Did Read go through the gate with you?

Answer. Yes, sir; there was but one gate, that I saw.

Question. Were you together until you got to the gate—Read and you?

Answer. Yes, sir; as I passed through the gate—I believe it opened on the right.

Question. You saw the sergeant before you got to the gate, and Read was with you until you got to the gate?

Answer. Yes, sir; he was in the rear of me. I was walking down the path and he was behind me some four or five steps.

Question. And you saw the sergeant at that time?

Answer. Yes, sir.

Question. And he did not see the sergeant?

Answer. No, sir; he did not see him. At least I do not know whether he saw him or not. He did not stop to speak to him, and I judged by that that he did not see him.

Question. Was it more difficult for him to see him than for you?

Answer. I do not know.

Question. There were no obstructions in the lawn?

Answer. None, that I saw; but I stopped at the gate and he went on. The sergeant spoke to the one that was behind.

By the court:

Question. After leaving the sergeant, did you tell Read that you had had a conversation with the sergeant?

Answer. No, sir; I told him the next morning about what the sergeant said.

Question. Did the sergeant go with you after leaving the gate?

Answer. No, sir; he turned around and went back towards Leonardtown. I went on in the opposite direction to this house—I forget the man's name—and I stayed there all night.

Question. Was the sergeant when you saw him enter the gate standing on or off of the walk?

Answer. He was standing in the corner of the fence when he spoke to me, and outside of the gate.

By the accused:

Question. You saw him inside of the gate, though?

Answer. Yes, sir; I saw the sergeant first. I could not tell whether it was a sergeant or not, but I saw a man inside of the gate, and as I was shutting the gate this sergeant turned around and tapped me on the shoulder.

Question. Did you open the gate?

Answer. No, sir; I turned to shut it.

Question. Read and you went through together?

Answer. Yes, sir; I was ahead, and I turned around and shut the gate, and Read went on.

By the judge advocate:

Question. Are you certain of that?

Answer. Yes, sir; I am confident of that.

William Read, a witness for the prosecution, was recalled by the judge advocate and testified further, as follows:

By the judge advocate:

Question. Did you and Chapman go through the gate together?

Answer. Yes, sir. I went just ahead of him and left him to shut the gate.

Question. Who was ahead?

Answer. I was ahead. I opened the gate.

By the accused:

Question. Was not the gate open?

Answer. No, sir; I opened the gate and stepped out, and Chapman was right close to me.

Question. Were you ahead when you went up the lawn to the gate?

Answer. No, sir; Chapman was just ahead of me—I reckon two or three steps—my arm just touching his. When we got to the gate I stepped right ahead and opened the gate; I was in a hurry to get to Mr. Clarke's.

Question. You did not see anybody in the lawn?

Answer. No, sir.

Question. You are certain you opened the gate?

Answer. Yes, sir; I opened it and passed right on ahead, and supposed Mr. Chapman was behind me, and got on fifteen or twenty yards before I missed him, and turned around and waited until he came up to me.

Question. How long was it before Chapman came up?

Answer. Not long; I reckon a minute or two—about a minute; I reckon it was about two minutes.

Question. You are very confident that you and Chapman were together when you went to the gate, and he shut the gate?

Answer. Yes, sir; I left him behind to shut the gate, and I walked off down the road about fifteen yards before I missed him.

Question. What did he say when he came up?

Answer. I said, "Let us hurry on—it is getting dark—and go to Mr. Clarke's." He said not to be in any hurry, for his feet were sore, and we walked on down to the brook and got a drink, and then started about our business.

Question. Who did he tell you he saw?

Answer. He did not tell me he saw anybody.

Question. Did Chapman tell you the next morning that the sergeant was at the lane?

Answer. The next morning, the first I knew about it was the sergeant came and tapped Chapman on the shoulder and took him to one side, and then took him into Major Waito's office, and was in there ten or fifteen minutes before I went in.

Question. What did Chapman say?

Answer. That he had overheard our conversation.

Question. On the steps?

Answer. I do not know exactly whether he meant on the steps or where; but he spoke out in that way—that the sergeant overheard our conversation—so Chapman told me; that was the first I knew anything about it.

Question. Your talk on the steps was what he overheard?

Answer. I reckon that is what he meant. He said the sergeant overheard our conversation, but he did not say what the conversation was, nor where.

Question. Were you not talking about it on the steps?

Answer. I said, "There goes a hotheaded man," and Chapman said, "I wonder what made him give us that dollar apiece." That was all the conversation on the steps, and then the sergeant came up and patted him on the shoulder.

Question. Was the sergeant by?

Answer. I did not see him at the time we made those remarks.

Question. What sergeant was it?

Answer. I cannot tell you; I do not know any of them only by sight. The sergeant came to me and called me after he took Mr. Chapman in, but I could not tell his name: I did not ask him.

Question. Where was the sergeant when you were talking on the steps?

Answer. I do not know where he was; I did not see him anywhere.

Question. Was any other soldier by?

Answer. Not to my knowledge; I did not see any. We sat on the corner next the hotel.

Question. You said before it was on the corner of the store steps at Leonardtown.

Answer. Yes, sir; that is where I first knew that he knew anything about it; that is where he called Mr. Chapman to one side. I did not see the sergeant before to know him.

The witness was then dismissed.

The hour of three o'clock p.m. having arrived, the court, on motion, did then adjourn until to-morrow morning at ten o'clock.

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WASHINGTON, D. C.  
*Wednesday, May 3, 1865—10 a. m.*

The court met pursuant to adjournment. Present: The same members of the court as at the last session, the judge advocate, and the accused.

The proceedings of the last session were read and approved.

The judge advocate stated that the accused having on yesterday proposed to hereafter object to the testimony of Read and Chapman, as that of public enemies against a citizen of the State of Maryland and of the United States, he, the judge advocate, proposed to now introduce the testimony of two or more witnesses touching the general reputation of the accused for disloyalty in the district in which he resides, thus answering the said objection of the accused, and showing that the testimony of Read and Chapman was not unreliable as against him, he having been in full sympathy with them.

The accused objected to the introduction of the proposed testimony.

The court was cleared for deliberation.

The court was opened.

The judge advocate announced that the court had not decided upon the objection raised by the accused. He also stated that he desired to introduce the testimony of the sergeant mentioned by the witnesses Chapman and Read as having overheard conversation, before proceeding further; that said sergeant was expected to be present to-morrow. He therefore requested the court to adjourn.

On motion, the court did then, pending the foregoing objection of the accused, adjourn until to-morrow (Thursday) morning, at ten o'clock.

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WASHINGTON, D. C.  
*Thursday, May 4, 1865—10 o'clock a. m.*

The court met pursuant to adjournment. Present: The same members of the court as at the last session, the judge advocate, and the accused.

The proceedings of the last session were read and approved.

The judge advocate stated that he had appointed Mr. D. F. Murphy the reporter of this court, in the place of Mr. R. R. Hitt, who was obliged to absent himself in order to attend a trial before another court on which he had been engaged prior to the commencement of this trial.

D. F. Murphy was then duly sworn by the judge advocate as reporter to the court, in the presence of the accused.

The judge advocate stated that an unanticipated difficulty had been experienced in securing the presence, as a witness, of the sergeant heretofore alluded to; that a sergeant supposed to be the proper witness had been forwarded from Leonardtown, who turned out not to be the witness who had been summoned, and in order to secure the attendance of the proper person he asked the court to adjourn until to-morrow; whereupon,

On motion, the court adjourned until to-morrow (Friday) morning, at ten o'clock.

WASHINGTON, D. C.,  
Friday, May 5, 1865—10 o'clock a. m.

The court met pursuant to adjournment. Present: The same members of the court as at the last session, the judge advocate, and the accused.

The proceedings of the last session were read and approved.

The accused moved that the record be amended on page 75, by inserting the words "it was already open," after the word "sir," in the second answer on that page of the testimony of the witness Chapman, so as to make that answer read, "No, sir, it was already open," having been omitted in the record of the answer.

The judge advocate assented to the propriety of the proposed amendment.

The court directed that the record be amended accordingly.

The judge advocate stated that he regretted to be obliged again to ask for an adjournment by the court. The officer who had been despatched for the witness whose attendance was deemed important, on arriving at Leonardtown last night found that the troops at that point, under General Barnes, had been or were then in the act of being removed to Point Lookout, and, therefore, he would have to go to Point Lookout, or to exchange telegrams with that post, and could not return to Washington until to-night or to-morrow morning. In view of the desire of the court to have the case before it thoroughly tried, and all the facts brought to light and spread upon the record, the judge advocate felt it his duty to ask for an adjournment until to-morrow.

The accused expressed a desire that the court should postpone a formal adjournment until the arrival of his counsel, with whom he desired the privilege of conferring.

The judge advocate explained that on the first day of the trial the accused being called upon to state whether he desired counsel at that time replied in the negative, but that he might desire to introduce counsel during the trial, and at the close of that day the accused requested from the judge advocate the ordinary permit to allow Mr. J. W. Carlisle, of Washington, to pass into the Old Capitol prison and confer with him as counsel. The judge advocate gave that permit, which was delivered to Mr. Carlisle, but that gentleman, it was understood, had not yet conferred with the accused.

The accused stated that he had had one interview with Mr. Carlisle, but a very unsatisfactory one, because it was in the prison.

The judge advocate further stated that if the accused, now or at any time, wished to secure the advice and services of any one or more counsel, either in the place of Mr. Carlisle or in addition to him, the judge advocate would give them the proper passes to visit the accused, and would afford him every facility for conferring with them and enjoying the benefit of their services, subject, of course, to any objection which might properly be made to the appearance of such counsel when they should come before the court.

On motion, the court adjourned until to-morrow morning, at ten o'clock.

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WASHINGTON, D. C.,  
Saturday, May 6, 1865—10 o'clock a. m.

The court met pursuant to adjournment. Present: The same members of the court as at the last session, the judge advocate, and the accused.

The proceedings of the last session were read and approved.

The judge advocate stated that he had received despatches from the officer in search of the man whose presence as a witness had been desired, to the effect that after the employment of all reasonable diligence he could not be found. He (the judge advocate) would not ask the court to delay further, but would proceed with the case.

Reuben R. Stewart, a witness called for the prosecution, being duly sworn, testified as follows:

By the judge advocate:

Question. What is your name, regiment, and company?

Answer. Reuben R. Stewart, sergeant company C, eleventh regiment Veteran Reserve Corps.

Question. Were you or not on duty at Leonardtown on or about the 27th of April last?

Answer. I was.

Question. On what duty?

Answer. On the 27th day of April I was called upon with a guard of six men, by order of Captain Willoughby, to be sent to Mr. Benjamin Harris's, I think.

Question. Did you on that day, the 27th of April, assist in the arrest of the accused, B. G. Harris?

Answer. I did.

Question. Were you placed in charge of him subsequent to his arrest?

Answer. Yes, sir.

Question. Did you, while in charge of him, remain alone with him during any time, and or how long?

Answer. During the whole time that I was there I was alone with him; I should think for a couple of hours.

Question. Entirely alone?

Answer. Yes, sir.

Question. During that time did he make to you any statements in regard to his conversation with the confederate soldiers, Chapman and Read, the day before?

Answer. Yes, sir.

Question. State what those statements were, confining yourself strictly to what he represented was said in that conversation.

Answer. He said that two men (Sergeant Chapman and Private Read, I think) came there the night before; inquired the way to Leonardtown; that he said to them it was half a mile or thereabouts; that they told him they would like to go to Leonardtown; they wanted to get to Baltimore as soon as possible; that they were paroled prisoners from General Lee's army to General Grant. Mr. Harris said that he told them they could go there without taking the oath; but they proposed to take the oath, he said, and he told them that our men could not compel them to take the oath according to the surrender of General Lee to General Grant. They replied that they wanted to get to Baltimore as soon as possible, as they were out of money. He said he gave them a dollar apiece, and told them that would get their supper and lodging, and if they wished any more he could let them have some more. That, I think, is precisely the substance of the conversation that he said they had together.

Question. You have stated, then, as well as you remember, all that he represented to you to have been said by him, or Chapman or Read, in the course of their interview?

Answer. There is one thing more: They wished to stop there for the night; I am certain—the circumstance occurs fresh to my mind now—that he said they wished to stop there over night, and he told them no; the people there knew his political sentiments, and he chose not to keep them over night, and handed them out a dollar in money. That was the way it was.

Question. That is all you remember?

Answer. Yes, sir.

Question. Do I understand you to say that he said they asked for money?

Answer. No, sir. He did not say they asked for money at all.

Question. Were those statements made to you voluntarily by the accused?

Answer. Yes, sir; they were.

Cross-examined by the accused:

Question. Did I not tell you that those men came there and asked for lodging, and that I said to them I did not wish to lodge them, and gave them a dollar apiece to go to the hotel and lodge?

Answer. Yes, sir, with the addition of the remark that men about there knew your politics and it would not do to keep them—they could go and get lodgings somewhere else.

Question. Did I not say "Go to Leonardtown?"

Answer. No, sir; you did not say "Go to Leonardtown," but "Somewhere else."

Question. Did I not say on that occasion that I had no intention whatever of committing any offence to the government against the laws?

Answer. No, sir.

Question. Did I not say that I thought I had a right, and thought it was proper, and not wrong, to give paroled prisoners such a sum of money as that to lodge them?

The judge advocate objected to the question, on the ground that the accused only had a right in his cross-examination to examine the witness as to points elicited on the direct examination, which had been confined simply to the statement of the accused as to his conversation with Chapman and Read.

The accused, in reply, claimed the right to elicit from the witness on cross-examination the whole conversation between himself and the witness as to which the direct examination had related.

The court requested the accused to put in writing the question which he desired to put to the witness, and the accused reduced it to writing, as follows:

Question. State the entire conversation and all that the accused said to you in that conversation, as near as you can recollect.

The accused read to the court in support of his right to put the question from page 264 of Benét's Military Law and Courts Martial.

The judge advocate objected to the question upon the ground that the conversation of the accused with the witness, further than as connected with the admissions which had been testified to, was not proper cross-examination.

The court was cleared for deliberation. The court was opened; and the judge advocate announced that the court had overruled the question in the form in which it had been put by the accused, but would allow the accused to put a question of this character: "State all that the accused said to you in that conversation, as near as you can recollect, relating exclusively to the subject-matter of the conversation between the accused and Chapman and Read."

The president of the court in this connexion wished the judge advocate to explain to the accused that all proper latitude within the limits of a question such as that allowed by the court to be put would be granted to him; and the judge advocate so announced to the accused.

The accused declined to put the question in the form allowed by the court.

The accused then applied to the court to be permitted to introduce Judge P. W. Craine, of Baltimore, as his counsel, which application was granted, and Mr. P. W. Craine appeared as counsel for the accused.

The accused, after conference with his counsel, renewed the following question to the witness, Stewart: "State the entire conversation and all that the accused said to you in that conversation, as near as you can recollect."

The judge advocate renewed his objection to the question.

The court was again cleared for deliberation. The court was opened, and the judge advocate announced that the court had determined to permit the accused to address the question to the witness.

The cross-examination of Renben R. Stewart was continued by the accused:

Question. State as near as you can, in addition to what you have said, all the conversation I had with you on this matter in regard to my giving those men the money, and my motive in doing it."

The judge advocate objected to the question as not being the one upon which the court had passed. The question upon which the action of the court was had was then read to the witness, as follows:

Question. State the entire conversation and all that the accused said to you in that conversation, as near as you can recollect.

Answer. The conversation that occurred between him and me followed after this other discourse. If my memory serves me, as I think it does, in reply to his saying that he gave the two dollars, he said, "It is damned abolitionism; if the abolitionists had stayed away the thing would all have been right." He said, furthermore, that the idea of a few men assembling here in Washington and prohibiting the rights of the people of the south, after General Lee and General Grant had entered into an agreement for the paroled prisoners all to go home, was a damned piece of humbug; that it was a disgrace to the government, and that republicanism would not rule long: by God, we would show them within two years who would rule. A few moments previous to that there was a combat betwixt two cats in the yard. One of them was a black cat. About this time the black cat passed along where we were sitting. He was in a chair and I was sitting on a stool. He said, "There goes a damned black republican." I had heard the word "black republican" previous to that, and it always annoyed me very much. However, I made no reply to it further than when he was speaking about the people collected here at Washington I said, "Sometimes, Mr. Harris, put a new harness on to an old horse, or even a young horse, and it will make him feel very proud." As to the motive that he expressed or that he expressed any in regard to the money that he gave them, I am not aware of. That is the substance of the conversation, as near as my memory serves me. Every little word that would have no particular allusion to this matter I could not confine my mind to; neither did I; but the particulars of the discourse I endeavored to plant so that I could have them spring out at any time, under all circumstances.

Question. You say you do not recollect my saying that when I gave them a dollar apiece I never did anything more innocently in my life?

Answer. I do not.

Question. Was not the remark in regard to the two cats jestingly made?

Answer. I took it that it came in connexion with the remarks made about republicanism.

Question. Was it not jestingly made?

Answer. It came in place with those remarks, I calculate. I took it to refer particularly to the republicans being black republicans.

Question. Was I jesting with you?

Answer. I took it all to be in earnest; and you seemed to be brazen about it, with a sort of rigidness in some way because you were arrested. Nothing jesting took place, that I know of, while I was there.

Question. You say there was no one present at our conversation?

Answer. I can say there was no one present at our conversation. Others were present at other times; but during the time that I was there with you I could safely say we were alone by ourselves—no one else on the stoop—for over two hours at different times.

Question. But I am speaking now of the conversation?

Answer. When this conversation took place we sat there alone for over an hour and a half.

Question. I ask you now this question, Whether or not I knew anything in regard to these men having given information against me until Mr. Maddox came over and told me the fact in your presence?

A member of the court objecting to the question, the accused varied it as follows:

Question. Was not Mr. Maddox present at the conversation which we had?

Answer. He was not.

Question. Not there the whole time?

Answer. He was not.

Question. At no conversation between us?

Answer. Yes, sir. He was there at some conversation, but not at the conversation as to which I have testified.

Question. Was he not present at a conversation then had in regard to giving money to those men, Read and Chapman?

Answer. He was there twice, but he was not there at the conversation that you repeated over in regard to your giving those men money. You did speak in his presence of giving them some money, but you rehearsed this over after he left, and said you did not know what the hell you were arrested for unless it was on those men. He made the report to you in my presence. I heard all the conversation that occurred. You said you were left in wonder to know how it came that you were arrested and for what cause, and he then said, "It is rumored in town that those two men who were here reported you."

Question. That was the beginning of the conversation?

Answer. That was the beginning of that conversation that occurred; and then there were other conversations that followed, but not in relation to this matter more than you went on to speak of your giving them money. Then after he went away you went on talking. You remember very well that I was sitting at the other side of the post, after he went away, near where you have a pear sprout. You came there and put your feet against the post. We were alone; there was no other person there. The guards attempted to come up there while Mr. Maddox was there. They were posted out some two or three rods from your house. I told them to go back, that they had no right there, but should go back where I had stationed them.

Question. I understood you to say that Mr. Maddox was present at one conversation?

Answer. He was present at some conversation twice.

Question. And he was the man who told me that it was supposed in Leonardtown that those two men had given information?

Answer. Yes; he said it was rumored in town that those two men who were to your house had reported you.

Question. Did I not then say that I did not know why it was that I was arrested, unless it was that I had given them a dollar apiece to lodge them?

Answer. No, sir; you said you did not know what the devil they could have reported you for. Those were the words you made use of, I think.

Question. What more did I say then?

Answer. The conversation dropped at that, and you and he went on to talk about some other affairs, not about this.

Question. How long after that was it before I alluded to the fact of having given them a dollar apiece?

Answer. You spoke of that after a bit.

Question. How long after?

Answer. Perhaps twenty minutes. You did not speak of it right off at least.

Question. You do not recollect my stating, in connexion with the giving of the money, that I had no motive at all to give offence to any one?

Answer. No, sir; I do not. I am certain it was not said. If it had been said I should have noticed it.

By the court:

Question. Who is the Mr. Maddox referred to—a soldier or a citizen?

Answer. A citizen: the son-in-law of Mr. Harris, it is said.

The witness was then dismissed.

The judge advocate stated to the court that he now withdrew the offer made by him a few days since to introduce testimony in regard to the character of the accused for disloyalty, such testimony being no longer considered necessary, at least in this stage of the case.

The judge advocate then offered in evidence, with the consent of the accused, the terms of capitulation between Generals Grant and Lee, as contained in General Orders of the War Department, No. 73. Adjutant General's Office, April 24, 1865, as follows:

"Rolls of all the officers and men to be made in duplicate; one copy to be given to an officer designated by me, the other to be retained by such officer or officers as you may designate. The officers to give their individual paroles not to take up arms against the government of the United States until properly exchanged, and each company or regimental commander sign a like parole for the men of their commands. The arms, artillery, and public property to be parked and stacked and turned over to the officers appointed by me (General Grant) to receive them. This will not embrace the side-arms of the officers, nor their private horses or baggage. This done, each officer and man will be allowed to return to their homes, not to be disturbed by United States authority so long as they observe their parole and the laws in force where they may reside."

The judge advocate moved to amend the record by striking out, in the testimony of Richard Chapman, the words "and Mr. Read remarked 'it was too late to kill him now,'" in lines 1, 2, and 3, of page 18 of the record, the witness Chapman not having used, or intended to use, those words as applicable to Read's remark, but to say that the accused, only, declared it was too late to kill the President now.

The accused objected to the motion, as he had a distinct recollection of the witness Chapman having said that Read used those words.

Richard Chapman recalled by direction of the court.

By the court:

Question. In the record of your testimony it appears that you said, "From that, in talking, the young man with me, Mr. Read, spoke about the death of the President, and Mr. Read remarked 'it was too late to kill him now.'" The court wish to know if you so testified, or wish to be so understood?

Answer. Mr. Harris remarked that it was too late to kill him now.

Question. Then the record is not what you said?

Answer. If I said it I did not mean it.

Question. What did you say?

Answer. Mr. Harris remarked that it was too late to kill him now, and Mr. Read remarked that he wished to catch Booth.

By the judge advocate:

Question. Did you ever testify before a court-martial before?

Answer. No, sir.

By the accused:

Question. Did you say it or not? You may not intend it now on reflection, but did you say it?

Answer. I said that Mr. Harris used those words, "It was too late to kill him now."

Question. What did you say about it when you gave your testimony?

Answer. I do not know. It is down here that I said Mr. Read said it, but that is a mistake

The court directed the record to be amended as proposed by the judge advocate.

The judge advocate stated to the court that from a despatch just received from the officer sent for the person whose attendance as a witness had been deemed desirable, there was still a possible chance of obtaining his attendance. He (the judge advocate) would now close the case for the prosecution, reserving the right to call that person as a witness in the event of his arrival.

The judge advocate then asked the accused if he was ready to proceed with his defence at this time.

The accused replied that he was not. He had sent for witnesses who might be present, perhaps, on Monday next at 11 o'clock, but he preferred a postponement until Tuesday to make certain of the attendance of his witnesses.

The judge advocate objected to an adjournment to Tuesday, but was willing to agree to an adjournment until Monday, with the understanding that if the witnesses for the accused were not then present, proper affidavits must be made to show cause for further delay.

On motion, the court then adjourned until Monday morning, May 8, at 11 o'clock.

WASHINGTON, D. C.,  
Monday, May 8, 1865—11 o'clock a. m.

The court met pursuant to adjournment. Present: The same members of the court as at the last session, the judge advocate, and the accused.

The proceedings of the last session were read and approved.

During the reading of the record, Mr. P. W. Craine, counsel for the accused, appeared in court.

The judge advocate presented and read to the court the following orders:

[Special Orders No. 199.—Extract.]

WAR DEPARTMENT,  
ADJUTANT GENERAL'S OFFICE, Washington, May 2, 1865.

\* \* \* \* \*

31. Major General A. A. Humphreys, United States volunteers, is hereby relieved from duty as a member of the general court-martial convened by Special Orders No. 196, May 1, 1865, and of which Major General Foster, United States volunteers, is president.

\* \* \* \* \*

By order of the Secretary of War.

W. A. NICHOLS,  
Assistant Adjutant General.

Official:

SAMUEL BRECK,  
Assistant Adjutant General.

The accused offered a paper in writing, containing objections to be taken by him to the jurisdiction of the court and to the specification of the charge; which was allowed to be filed without objection. It is annexed to this record, marked Exhibit A.

The accused offered in evidence, without objection, a certified extract from Special Orders No. 72, headquarters armies of the United States in the field, dated April 10, 1865. It is annexed to this record, marked Exhibit B.

The accused stated to the court that he was not now prepared to go on with his defence, his witnesses not having arrived, and he presented to the court the following affidavit, upon which he asked for a continuance:

B. G. Harris, the accused in this case, makes application for a postponement of this trial until to-morrow, eleven o'clock, in order to procure the testimony of A. F. Fenwick, living near Leonardtown, St. Mary's county, Maryland; that said Fenwick is a material witness, and that he expects to prove by him that he lives in the first house on a hill to the right of the road going from Leonardtown by the residence of the accused, and about a mile and a half further and across a mill-stream; that the witnesses Chapman and Read did not lodge at his house; that they applied for lodging, and that he refused it to them; and that he expects to prove by said witness that there was no understanding with him and the accused that he should harbor or lodge said witnesses; that said witnesses paid him no money for lodging; and he has reasonable ground to believe, and does believe, that he will be able to procure said witness by to-morrow at 11 o'clock.

B. G. HARRIS.

Subscribed and sworn before me this 8th day of May, 1865.

W. W. WINTHROP,  
*Major and Judge Advocate, Judge Advocate General Court-Martial.*

The judge advocate stated that he had no objection to granting the request now made by the accused, except as to the hour named for the meeting to-morrow, which he wished to fix at 10 o'clock.

The accused then stated that he desired to introduce Mr. Frederick Stone, of Maryland, as additional counsel, which application was granted, and Mr. Stone appeared as counsel for the accused.

On motion, the court adjourned until to-morrow (Tuesday) morning, at 10 o'clock.

WASHINGTON, D. C.,  
*Tuesday, May 9, 1865—10 o'clock a. m.*

The court met pursuant to adjournment. Present: The same members of the court as at the last session, the judge advocate, and the accused and his counsel, Mr. Stone.

The proceedings of the last session were read and approved.

Aloysius F. Fenwick, a witness called for the defence, being duly sworn, testified as follows:

By the accused:

Question. Where do you reside?

Answer. I reside about a mile and a half below Leonardtown, St. Mary's county, Maryland.

Question. Do you reside about the same distance from my house, taking the lane and the road?

Answer. I think about half way of the road.

Question. Do you not reside about the same distance from the two places, my house being somewhat off the road?

Answer. I do not think it is that far from Mr. Harris's. It is something like half that distance, I think, from Mr. Harris's house; perhaps a little more. From my house to Mr. Harris's is, I suppose, about three-quarters of a mile: perhaps a little more.

Question. Do you or not live on the road going by my house and across a mill-stream?

Answer. I do.

Question. Going up a hill?

Answer. Yes, after you cross the stream.

Question. Is not yours the first house on the hill?

Answer. Yes, sir.

Question. Is it not the only house on the hill to the right?

Answer. Yes, sir; it is the only one.

Question. On the evening of the 26th of April did you lodge any strangers there?

Answer. I lodged one man there. He was not a stranger, though.

Question. A citizen?

Answer. He was a citizen.

Question. Did any one apply to you for lodging on that evening?

Answer. Yes, sir.

Question. Who did ?

Answer. Two men who said they were paroled prisoners. One gave his name as Chapman, and the other as Read.

Question. Did they apply to you for lodging ?

Answer. They asked for accommodation. I do not think they said "lodging," but asked me if I could accommodate them.

Question. For the night ?

Answer. I supposed so; it was night then.

Question. Did you accommodate them ?

Answer. I did not.

Question. Neither accommodated them nor received any money from them ?

Answer. Not a cent.

Question. They left your house that evening ?

Answer. Yes, sir.

Question. Was that the last you saw of them ?

Answer. I have not seen them since.

Question. Is there any negro man living below on a hill, on my land, between your house and my house ?

Answer. There is a negro man who lives on the hill, off from the road somewhat, beyond the mill.

Question. That is, in the valley ?

Answer. No; on the hill.

Question. Where do you mean on the hill ?

Answer. Just above my mill. Lawrence's George lives there.

Question. That is not on the road; how far off is it ?

Answer. I said it was not on the road, but on the hill above the mill. It is some distance from the road.

Question. How far from the road ?

Answer. I suppose half a mile from the nearest road.

Question. Hardly visible ?

Answer. You cannot see it from the road.

Question. Then there is no house on the road between your house and mine where a negro man lives ?

Answer. Not that I know of.

Question. Is there any negro house on the road anywhere on my land ?

Answer. I think not.

Cross-examined by the judge advocate:

Question. How long have you lived in that locality ?

Answer. About fifteen years.

Question. You are an old friend of Mr. Harris, are you not ?

Answer. Yes, sir; I have known Mr. Harris some years.

Question. Are you not a friend of his ?

Answer. I am.

Question. Are you one of his constituents ?

Answer. Yes, sir.

Question. Did you vote for him for Congress at the last election ?

(The accused objected to the question as not being relevant to the issue.)

The judge advocate replied that such questions were proper to show the bias of the witness. The court overruled the objection.)

Answer. I did vote for Mr. Harris as a member of Congress at the last election.

Question. Do you keep a hotel ?

Answer. No, sir.

Question. You say that the men whom you mentioned called at your house and asked to be accommodated on the night of the 26th of April ?

Answer. Yes, sir.

Question. Do you mean to say that you furnished them no lodging or accommodation whatever ?

Answer. I do.

Question. State precisely, as well as you can recollect, the conversation that occurred between you and those two men on the subject-matter of their request for accommodation.

Answer. They simply asked me if I could accommodate them, and said they were paroled prisoners. I told them I could not.

Question. Did you give any reason ?

Answer. No, sir; I do not think I did. I do not recollect giving any.

Question. What reply, if any, did they make to that ?

Answer. Really, I do not know exactly.

Question. Give it as near as you remember.

Answer. When I first told them I could not accommodate them they said they were paroled prisoners. I read the paroles—one at least, for only one had a parole. The other had not,

but had a pass. I asked why it was they both had not paroles. One of them said they had lost one coming across the river. I think it was Read who said he had lost his. We talked about different things for a short while, and they then left. I asked them some questions about how long they had been in the army in Virginia, where they were from, and so on. They answered the questions. Some more conversation took place between us which I do not recollect. I never thought to be called on to repeat it, and it has escaped my memory.

Question. You say the men then left. What do you mean by that? Where did they go?

Answer. They left my door.

Question. Where did they go?

Answer. I did not follow them.

Question. That is not an answer; where did they go?

Answer. They went out of my yard.

Question. But where did they go?

Answer. I cannot tell you where they went. I can tell you where I think they went.

The accused objected to any statements by the witness except those made of his own knowledge.

Question. Do you mean to say that you saw them go out of your yard?

Answer. Yes, sir; they went out of my yard gate into the road.

Question. You saw them go out of your yard into the road?

Answer. I did.

Question. Did you see them from that moment?

Answer. No, sir; I could not see them. It was a little dark, and the gate was, I suppose, fifty or seventy yards from the house. They entered the road going to the bay by my gate, and I could not see them after that.

Question. After they left your yard and went into the road, you saw them no more?

Answer. I saw them no more.

Question. Have you seen them since?

Answer. I have not seen them since.

Question. Then you do not know, of your own knowledge, where they went from the moment they left the gate to go into the road?

Answer. I do not.

Question. Have you stated all that you can recollect of the conversation in regard to this point?

Answer. I think so.

Question. Did you not tell them, in answer to their application, that you could not accommodate them in your house?

Answer. I think not.

Question. Did you not tell them that they could stay on some part of your premises?

Answer. I told them, after they got through talking, that they might remain in my barn. I did not see them go to the barn, for I could not see.

By the accused:

Question. They did not pay you any money?

Answer. Not a cent.

Question. You did not accommodate them in your private house?

Answer. I did not.

Question. And you do not know where they did stay, of your own knowledge?

Answer. I do not.

Question. You have been asked whether or not you voted for me and are my friend. Did you not, when you voted for me, take the oath of allegiance prescribed by the constitution of Maryland?

Answer. Yes, sir; I did.

By the court:

Question. Did you see the direction on the road the men took, after they left your place?

Answer. They went in the direction of my barn. My barn was on the road, off about east.

Question. Was that going towards Leonardtown?

Answer. Yes; that is the road travelled to Leonardtown from my house.

Question. They went then towards Leonardtown from your house?

Answer. That was the course they took. It is the way I always go, when I go to town.

Question. You saw them go that way?

Answer. I saw them leave my gate; they went on that road, and they turned that way.

Question. You are not sure of it?

Answer. That is my impression.

Question. Could you not see?

Answer. I could not see well; I could see them go through the gate, and apparently turn in an easterly direction.

By the judge advocate:

Question. In the direction of your barn?

Answer. Yes, sir.

Question. How far is the barn from the house?

Answer. I suppose about one hundred and fifty yards.

Question. On the opposite side of the road?

Answer. Yes, sir; on the other side of the road.

By the court:

Question. Is it towards Leonardtown?

Answer. It is in the direction we go to Leonardtown, but it is not towards the town. In going to Leonardtown from my house, we take the road my barn is on.

Question. Have you any knowledge that they stayed in your barn that night?

Answer. I have not.

Question. Do you know whether they went into it?

Answer. I do not.

Question. But they had your permission to go there if they wanted to go?

Answer. They had.

Question. Does the colored man George, of whom you speak, live on the same side of the road that the barn is on?

Answer. It is a different road.

Question. But does he live on the side of that road?

Answer. No.

Question. Does he live on the same side of the road your house is on?

Answer. No; it is a different locality. It is off in a different place, off in the woods.

Question. But there is a public road past your house and barn?

Answer. Yes.

Question. Does this man George live in the direction of the barn and beyond?

Answer. If you would go to his house, you would follow that same road.

By the accused:

Question. But would you not turn very much out of your way on the road to Leonardtown to go the house you call George's?

Answer. Yes, sir; half a mile, I should think.

Question. It is not visible from the road?

Answer. I do not think you can see the house from the road; it is back in the woods.

Question. In going from Leonardtown by my house to your house, and across that mill-stream, the road is straight?

Answer. Pretty much.

Question. Does it or not, when it turns in to your house, fork?

Answer. It does.

Question. And then goes right down to your house?

Answer. Yes, sir; it is a right angle, I think.

Question. In going out of the gate at your house to get into this road, that makes a right angle with the main road, and then you can go in a direction either way from the fork, either down that road or back to Leonardtown?

Answer. Certainly.

Question. You do not know, then, nor can you tell, in what direction they went after they got beyond your gate?

Answer. I cannot tell.

Question. You cannot tell whether, after they got to the fork, they went down the road or up the road? You know nothing about it?

Answer. Of course not. I could not see; it was dark, and I was a good way off.

By the judge advocate:

Question. Who is this man George?

Answer. A colored man.

Question. Was he a slave?

Answer. He was a slave.

Question. Whose slave?

Answer. He belonged to a man named Hammatt.

By the court:

Question. According to the best of your knowledge and belief, where did the two men, Chapman and Read, stay that night?

Answer. I think they stayed in my barn.

By the accused:

Question. Have you any knowledge of the fact?

Answer. No, sir; I have none.

The witness was then dismissed.

The accused objected to statements as to impressions or opinions.

The case for the defence was here closed.

The judge advocate, in rebuttal, offered in evidence a certified copy of a despatch of Lieu

tenant General Grant to Major General Ord, "Headquarters armies of the United States, Washington, April 18, 11 p. m., 1865," which is annexed to this record, and marked Exhibit C.

The judge advocate also offered in evidence a certified copy of a despatch of Lieutenant General Grant to Major General Ord, "Headquarters armies of the United States, Washington, D. C., 5.30 p. m., April 19, 1865," which is annexed to this record, and marked Exhibit D.

The judge advocate also offered in evidence a certified copy of a despatch from Lieutenant General Grant to Major General Ord, "War Department, Washington city, April 20, 1865, 2.55 p. m.," which is annexed to this record, and marked Exhibit E.

The accused consented to the admission of the above-mentioned orders in evidence, subject to any objection which he may hereafter take in his argument.

The judge advocate having no further testimony to offer in rebuttal, inquired of the accused if he was now ready to present his written defence.

The accused replied that he was not now ready to present his written defence, and to enable him to do so, asked for an adjournment of the court until Thursday next, at 11 o'clock.

At the request of a member of the court, the court was cleared for deliberation.

The court was opened.

For the purpose of giving time to the accused to prepare his written defence, the court adjourned until Thursday next, May 11, at 11 o'clock a. m.

WASHINGTON, D. C.,  
Thursday, May 11, 1865—11 o'clock a. m.

The court met pursuant to adjournment. Present: The same members as at the last session, the judge advocate, and the accused, with his counsel, P. W. Craine, esq.

The proceedings of the last session were read and approved.

The accused was then called upon for his written defence; whereupon, by his counsel, Mr. Craine, he offered to the court the written application hereto annexed, marked Exhibit F, in which he prayed that a summons might be issued to Brevet Brigadier General G. H. Sharpe, late assistant provost marshal general of the armies operating against Richmond, as a witness, and to bring into court with him the duplicate roll of the 32d rebel Virginia regiment of infantry, containing the names of the paroled soldiers of that regiment of General Lee's army.

In support of the application, the accused, by his counsel, stated that this roll had been referred to and was found not to contain the names of the witnesses of the prosecution, Chapman and Read; that it was therefore material evidence to discredit their testimony to the effect that they were paroled prisoners; that the admission of the testimony was within the discretion of the court.

The judge advocate objected to the granting of the application on the grounds—first, that the defence had once been finally closed, and the court had adjourned for the purpose of allowing the accused an opportunity to prepare his written address, and that the accused had no right at this stage of the case to reopen his defence; second, that the accused had had the assistance of four counsel on the trial, and therefore no excuse for not presenting this testimony at the proper time; third, that the testimony in question was not before the court, and the court had, therefore, no means of judging whether it would be competent when presented; and that, upon this uncertainty, a delay at this stage for the purpose of procuring it was more than could properly be accorded to the accused.

The court was cleared for deliberation, and on being reopened, it was announced that the application was granted. The court then took a recess of an hour to enable the testimony to be procured.

At the end of an hour the court reassembled; whereupon Brevet Brigadier General G. H. Sharpe, having been duly sworn as a witness on the part of the defence, testified as follows:

By the accused:

Question. Have you the custody of the rolls of the 32d rebel Virginia regiment of infantry surrendered by Lee to Grant? State, on examining the roll, whether in company K, of said regiment, you find the names of Sergeant Richard Chapman or Private William Read. Can you or not say whether the said sergeant and private were paroled as belonging to said regiment?

Answer. I was designated to receive duplicate rolls of General Lee's army. I did so receive them, and have them with me now. These papers which I have in my hand constitute the rolls of men as reported for parole in Corse's brigade, Pickett's division, the 32d Virginia being one of the regiments in that brigade. I do not find the names of either Sergeant Chapman or Private Read on the roll of this regiment. From the evidence, however, of this roll, I cannot say one way or the other, whether these men were actually paroled or not; why, I will explain. There are rolls furnished for but 260 men in Corse's brigade. On the rolls are only 42 men, I think, of the 32d Virginia.

Cross-examined by the judge advocate:

Question. What companies are represented by these men?

Answer. Companies A, C, E, F, H, I and K. B, D and G, are lacking. Company K has only a corporal and two privates on the roll.

Question. State the method pursued in paroling the men of Lee's army.

Answer. Rolls were furnished by the commanding officers of Lee's army, but many of the commands of that army were so disintegrated that a great deal of confusion was caused. I state as an illustration that General Ewell's whole corps was under the command of a lieutenant colonel. General Lee's army had also been attempted to be reorganized shortly before the surrender, and so much confusion was caused that a great many officers and men did not know to what command they belonged. General A. P. Hill's corps, for instance, did not exist as a separate corps. It was entirely merged in other corps. Then again, just prior to the surrender, a large number of men had left General Lee's army—some to secure food, some to escape, &c.; and for several days after the capitulation these men, as they heard of it, kept coming back in large numbers to receive the benefits of the surrender. Many of them, on returning, would find that their own particular commands had been paroled, and had left Appomattox Court House. There were also general officers of Lee's army who had abandoned their commands before or immediately after the surrender, leaving the men to shift for themselves. We had, therefore, to adopt the principle of allowing men to be taken upon the rolls by any commanding officers—officers of regiments other than their own—and this was done in many cases. Besides, General Lee's provost marshal, Major Bridgeford, took up a good many of these men belonging to scattering commands and paroled them. Later, General Fitz Lee, coming in, detailed Captain Cox, his adjutant general, to take up men of various commands for the purpose of being paroled. Before that, in very numerous cases, where men reported to us as being without paroles, we would send them to commanding officers other than their own, with a note stating that we would recognize their taking them up. Then, again, a large number of men of General Lee's army were not paroled at Appomattox Court House at all, but at Lynchburg, and along the line of the Southside railroad. Major General Parke's officers paroled a large number. I hold in my hand now, dated April 10, the written convention signed by the commissioners on both sides. In paragraph 5 it is stated that the capitulation shall include all bodies whatever of men who were operating with the army of Lee on the 8th of that month. This included men wherever stationed. I state these facts to show that the name of a paroled man would not necessarily be found on the rolls of his company, regimental, brigade or division organization. There may have been undoubtedly many men whose names are not included on the rolls of any organization—those, for instance, paroled at Lynchburg, or by General Parke. I know that some, also, of the men paroled at Appomattox Court House do not appear on the roll of any organization. We made every effort, but sometimes it was impossible to get the names, because some of the duplicate rolls of the commands to which these men belonged had been forwarded to General Lee before these men reported for parole. Several days prior to the surrender a considerable portion of Pickett's command had been captured. General Corse, commanding the brigade which includes this 32d Virginia regiment, was a prisoner. On the roll of this regiment I find only five officers—four of the line, (one a sergeant acting as an officer,) and one surgeon. The rolls of officers were intended to be made, and were generally made by brigades, but Pickett's command was so disintegrated that the officers are all included in a single division roll. This command was in Longstreet's corps, and was especially disintegrated at the time the parole was given. The facilities afforded us by the confederate officers in completing these rolls were very deficient.

Question. Do I understand you, then, to testify that the fact that the names of Sergeant Chapman and Private Read are not found on the duplicate rolls of the 32d Virginia regiment is no proof that they were not paroled?

Answer. Certainly, I do not consider it any such proof. I will say in regard to Corse's brigade, of which the rolls are dated on the 9th of April, that the completion of the paroling of the men of the brigade did not take place till four or five days after. The officers were all very anxious to get away—to be the first to get away. This brigade was one of the last paroled, and the reason was, that when we got to that brigade no officers remained to look after it. A part of the paroling consisted of giving to each man and officer of General Lee's army a certificate that he was a paroled prisoner of that army. These certificates were printed at the headquarters of the twenty-fourth army corps. They were furnished to me, and I furnished them to Lee's officers. They were signed by the officers of the commands of Lee's army. We did not see them given. I remember the fact that in Pickett's division the officers complained that they did not have their proper number of the certificates on their distribution, there being no one to look after them, or to take any care of them. This roll only contains the names of confederate soldiers paroled through me as assistant provost marshal general, and not those paroled by any other officer of the United States army.

The testimony of this witness being concluded, the accused offered in evidence a certified copy of the duplicate roll of the paroled men of the 32d Virginia regiment of Lee's army.

The judge advocate objected to its admission on the ground that it appeared from the testimony of General Sharp that the roll was no evidence whatever that the soldiers Chapman

and Read were not duly paroled; that if their names were on the roll it would be affirmative evidence that they had been paroled; but that the absence of their names from the roll was no proof that they were not paroled, because it was shown that they might have been paroled with any other organization of Lee's army, or with some one of the numerous bodies of scattering men who were taken up on general rolls by staff officers, &c., as described by General Sharp; and for the further reason that, though duly paroled, they might not have been taken up on any roll whatever, as also shown by the testimony.

The accused, by his counsel, claimed that, as some part of company K, of the 32d Virginia regiment, did appear on the roll, the roll was some evidence of the fact sought to be established; that as such it should be received, to be allowed its due weight with the court.

The court was cleared for deliberation, and on being reopened it was announced that the objection of the judge advocate was overruled, and that the evidence was admitted.

The roll admitted is hereto annexed, marked Exhibit G.

The accused being then called upon for his written defence, read to the court the address and argument hereto annexed.

The judge advocate then read to the court his reply and argument, which is hereto annexed.

The court was then cleared for a deliberation upon its judgment; but, instead of proceeding to such deliberation, concluded to adjourn for the day, the hour of 5 p. m. having arrived.

The court was then reopened, and, on motion, adjourned to half-past 9 o'clock to-morrow morning, May 12, 1865.

#### GENERAL COURT-MARTIAL, Friday, May 12, 1865.

The court met pursuant to adjournment. Present: The same members as at the last session, the judge advocate, and the accused.

The proceedings of the last session were then read and approved.

The court was then cleared for deliberation upon its judgment.

After mature deliberation and consideration of the law and evidence, the court do find the accused, Benjamin G. Harris, as follows: Of the first specification, guilty; of the second specification, guilty, except as to the words "and fed in a private house;" of the charge, guilty. And the court do therefore sentence the accused, Benjamin G. Harris, as follows: To be forever disqualified from holding any office or place of honor, trust, or profit under the United States, and to be imprisoned for three years in the penitentiary at Albany, New York, or at such other penitentiary as the Secretary of War may designate.

J. G. FOSTER,

*Major General Volunteers, President of the Court.*

W. W. WINTHROP,

*Major and Judge Advocate, Judge Advocate of the Court.*

The court was then reopened, and, on motion, adjourned *sine die*.

We certify that the within record is a true and accurate record of the proceedings of this general court-martial in the case of the United States *versus* Benjamin G. Harris.

J. G. FOSTER,

*Major General Volunteers, President of the Court.*

W. W. WINTHROP,

*Major and Judge Advocate, Judge Advocate of the Court.*

#### ADDRESS OF ACCUSED.

May it please the court, the accused, Benjamin G. Harris, a citizen of Maryland and of the United States, in no way connected with the land or naval forces of the United States or with the militia in its service, deems it his duty, before proceeding with his defence, to deny, as indeed he has done, the right or constitutional power of this government to have him arraigned and tried before a military court-martial upon the charges alleged against him. This he does from a sense of duty to the Constitution which he has sworn on various occasions to support, to himself, and to his fellow-citizens whose constitutional rights he wishes to see preserved. In making this denial, however, he desires to say that he is prompted by no want of confidence in the honor and impartiality of the members of this honorable court, or from any personal apprehension as to the result of this trial, conscious as he is of no crime against the Constitution and laws of his country, and feeling confident that none can be, or has been, truly proved against him.

The 56th article of war under which the accused is arraigned is in the following words:

"Whosoever shall relieve the enemy with money, victuals, or ammunition, or shall knowingly harbor or protect an enemy, shall suffer death or such other punishment as shall be ordered by the sentence of a court-martial."

The Constitution of the United States declares "no person shall be held to answer for a capital or otherwise infamous crime unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia when in actual service, in time of war."

There cannot be a more striking contrast. It is as gross and palpable as a mountain, and well worthy of the observation it should command from a people desirous of preserving their time-honored rights.

The second specification is not sustained by a single particle of proof. It cannot for a moment be pretended that I harbored and protected Chapman and Read by procuring them to be lodged, as stated, in any private house. They do not even know themselves at whose house they lodged. Indeed, it seems to be extremely doubtful whether they had lodging at any private house on the night of the 26th April. It is proved beyond question that they had not lodging at the house at which they swore they lodged. I therefore presume it will be unnecessary to direct any portion of my defense to that specification.

The first specification alleges that the accused relieved with money, to wit, the sum of two dollars, the public enemy, Sergeant Chapman and Private Read, of company K, 32d regiment of Virginia infantry, soldiers of the so-called Confederate States of America, then in rebellion against and at war with the United States; he, the said Harris, then and there well knowing said Chapman and Read to be soldiers of said army, and treating and offering to relieve them as such.

That these men belonged to the confederate army at all depends upon their own unsustained testimony, which appears to be, in many respects, of an extremely unreliable character, as will be attempted to be shown by the accused as he progresses in this defense. But let it be granted that they really were soldiers in the confederate army, as described in their testimony—what then? The testimony, as brought out upon that point, is, that they were both paroled prisoners, subject to the conditions of the capitulation which lately took place between Generals Grant and Lee; one condition of which was, that the paroled prisoners should "be allowed to return to their homes, not to be disturbed by United States authority so long as they observe their parole and the laws in force where they may reside." Thus paroled, they crossed the Potomac and came to Leonardtown, where they were treated as paroled prisoners of Lee's army by the commander of that post, intending to go to Baltimore, which they claimed as their home. Leaving Leonardtown on the evening of the 26th of April—Chapman allowed to go at large upon his parole, and Read, who seems to have lost his, having a paroled soldier's pass—they appear near the dwelling of the accused, and having an interview with him on the lawn in front of his dwelling, they ask for the privilege of lodging at his house.

The accused, actuated by a desire to get rid of entertaining two such strangers during the night, and, at the same time, by the humane feeling that these beggars and wanderers should not go without a bed; being impressed, too, with the idea of their utter destitution, by the fact of their leaving a hotel in order to apply to the charity of the country people, gives each of them one dollar, with directions that they could go back to the hotel and pay for their lodging there. This is the head and front of the offence alleged to have been committed by the accused. This is the specified act for doing which he is charged with having committed a violation of the 56th article of war, and subjected himself to the penalties attached thereto. Can any other motive be possibly assigned for furnishing this paltry pittance to these men than the one already stated, that they might be able to pay for a lodging at the hotel? The witnesses for the prosecution do not pretend to give any other. It will be recollected by your honors that they stated in their interview with the accused in the forenoon of the 26th April that they were confederate prisoners, as stated, so that the accused knew who and what they claimed to be in the interview in the evening on his lawn.

The witness Chapman, in giving in his testimony, makes the following statement, beginning with his fourth answer, in his examination in chief:

"Answer. I left Major Waite's headquarters at the hotel in Leonardtown, St. Mary's county, Maryland, about six o'clock in the evening of—I cannot tell what day of the month, but it was last week, and was on or about the 26th of April, and went from there to Mr. Harris's house. I went into his yard or lawn, and, as I entered the path or way through the lawn, he walked down through the lawn: he was under a tree there, and asked who was there; I told him it was a friend. Mr. William Read, of 32d Virginia infantry, confederate army, was with me. I asked the accused if we could stay all night there. He said he would prefer giving us some money and letting us go to the hotel and stay there. I told him that we were paroled prisoners of the army of northern Virginia.

"Question. The rebel army?

"Answer. Yes, sir.

"Question. What reason did he give, if any, for not taking you into his house?

"Answer. He said it was because the Yankees had their eyes upon him and were taking everything he had, and, therefore, he did not wish to keep us.

"Question. Did he say anything about being a member of Congress?

"Answer. Yes, sir; he said he was a member of Congress.

"Question. Did he state whether that was any reason why he should not take you into his house?

Answer. I do not remember that he did. He said he was a member of Congress; that the Yankees had taken what he had, and he did not wish to take us into his house. He said he would give me the money, and I could go to the hotel if I wished to. I was then on my way to Mr. Clarke's; and if I did not wish to go to the hotel, I could go to Mr. Clarke's. That is a private house in the neighborhood, about three miles further on.

"Question. What money did he give you?

"Answer. He gave me a dollar, and he gave Mr. Read a dollar. I told him *then* [I wish the court to mark that] that I wanted to go home very badly, and would go home if I had to take the oath of allegiance."

Read, with some slight verbal variation, gives testimony to the same effect. It is only necessary for my purpose to quote a portion of the record, beginning on page 45. He says: "Then he [meaning the commander of the post, Major Waite] gave me a pass to go out of town to Mr. Clarke's. I reckon that was about three miles out of town. We stopped at Mr. Harris's house, and thought we would not go to Mr. Clarke's, but would stay there all night. Mr. Harris said they had a "holt" on him there, and he did not want to keep us there that night, for he did not want to get into any trouble. He said he did not want us to stay there, for they would get hold of him, and he did not want to get into any trouble, and so he gave us a dollar apiece to go to the hotel and stay."

I have thus quoted from the record the entire testimony of both these witnesses as to the transaction of giving the dollar to each to pay for their lodging. According to both, the application for lodging, the refusal, and the giving of the dollar to each by the accused for the purpose of getting their lodging at the hotel, was an entire and complete transaction in itself, showing, clearly, the act and the only motive for it, independent of any other consideration whatever, and in no way to be affected by any asserted subsequent conversation between the parties. It stands isolated, and to speak for itself as if nothing else took place after it. The prosecution, from the course of its examination, would seem to attach some importance to the statement that the accused declared as a reason why he would not take witnesses in his house, that the Yankees had their eyes on him, had taken everything he had, and, therefore, did not wish to keep them; and, further, as stated by Read, "that I did not wish to get into any trouble." Can any inference, unfavorable to the accused, be drawn out of that by the ingenuity of the judge advocate? In times like these, when the wildest excitement raged; when the Secretary of War in his communication to General Dix had announced that the county in which I lived, among others, had been placed under the ban—when vagrants might be expected to be prowling about for the purpose of mischief—is there anything suspicious in the fact that the accused, or any one else, should be cautious in the admission of perfect strangers, such as these men are, within his doors for a whole night? Could he not fairly act upon this principle of caution and yet have given a pittance of one dollar each to these wanderers, to enable them to get a meal of victuals or a lodging at the hotel where the commander of the post then had his quarters, or at a Mr. Clarke's, to which place he had given them permission to go that very evening? I hardly think that the honorable prosecutor will attempt to advance any argument against such a clear and just conclusion. Thus this honorable court will perceive that the motive and intent with which this gift of one dollar to each of these men was made were of the purest character, perfectly free from any desire or design to commit offence to any one in the remotest degree.

The question, then, is, whether the money thus given, and to the persons described, constitutes a crime—constitutes a violation of the fifty-sixth article of war. How does that article read? "Whosoever shall relieve *the* enemy with money, victuals, or ammunition, or shall knowingly harbor and protect *an* enemy, shall suffer," &c. Now, who is *the* enemy in the meaning of the first branch of that article? It is the *power* with which the United States is at war—the belligerent power which is carrying on active hostilities against them—which is carrying on flagrant war against this country. To give money, victuals, or ammunition to any soldier of the enemy in arms, or any one else, so that it may or shall go to relieve the power—the enemy of your country—thus giving that enemy aid in carrying on hostilities, with a hostile intent on your part against your own government, is a violation of this article. When that article speaks of the enemy, does it mean prisoners of war, the captives of your arms and subjects of your power? Does it mean paroled prisoners, whose hostility to your country is suspended during the continuance of the parole? men who are bound during that time by the highest obligations of honor, as well as the most awful penalties, not to carry on war in any shape or form against your government? whose own government cannot force to arms, but is equally bound in honor not to use him for any hostile purpose during his parole, and which, if it should be guilty of such act, would degrade itself in the eyes of the civilized world? He is indeed, if within your lines, entitled to your protection. Can it be a crime against any properly organized government to give a man in such a position a dollar-bill to enable him to obtain a lodging or a meal? Are a Christian community forbid by your laws, or rather by this awful article of war, from extending to such a person any relief in sickness or in health? The government does not feed or lodge them when paroled. Shall no one else, under the severest penalties, be allowed to give them the least relief? God forbid that that should be the law of my country! God forbid that all those of my fellow-citizens of Maryland and other northern States who have acted as I have in regard to this matter, and with the same innocent intentions, should be compelled to undergo forced and continued separation

from their beloved families and friends, close solitary confinement within the ride walls of a prison, a public arraignment and prosecution such as I am undergoing. If such shall be the view of this article of war by the administration of this government, let them enlarge their prisons and multiply their courts-martial. Let them make room for fathers, mothers, sisters, and persons holding every relation in life. Thousands have acted as I have, believing that the prisoners paroled at the surrender of General Lee to General Grant, who claimed their homes north of the Potomac, had a right to seek those homes and there be received. They knew that these paroled prisoners had openly passed the most rigid blockade of the Potomac without molestation by the government, thus showing to all the government's acquiescence in the understood arrangement. The practical sense and statesmanship of such acquiescence should have assured every mind not swayed by the misleading and excitement of the times that the government would interpose no obstacles to their return. The war, as it were, being over, nothing would have a stronger and quicker tendency to heal the wounds of the country, to bind together again the ligaments which had been severed by the sword, than social and kindly intercourse. In this battle of ideas the north had been successful; the south with her institutions is at its feet. There must and should be necessarily a settling down of the public mind upon the condition of the country as established beyond question by the result of the conflict. It has been of such a determined character as to leave no doubt of the sincerity of the combatants. It is now devoutly to be hoped by all true friends of the country that revenge may not be the monitor from which those in power may take counsel, but that magnanimity may prompt them to remove all unnecessary asperities from the road which leads to reunion.

But, may it please your honors, let me return to the main question; and I will do so with the remark that if in the dollar gift to the paroled prisoners I have violated the fifty-sixth article of war, then I expect many an officer of your army would be equally guilty; for there is scarcely one of them who has not yielded to that duty of Christian precept—to that high moral obligation of giving food to their captive enemies.

If the construction of this article, which appears to be one adopted by the prosecution, be correct, then whoever relieves an enemy of any kind with food is liable to its penalties. It cannot be the true construction. I am not well versed in military authorities, and therefore have sought for no analogous cases—no precedents; and I shall be much surprised if the prosecution shall bring one like this. It is unprecedented.

If, then, as I have argued, my giving one dollar to a paroled prisoner is not a crime—is not a violation of the fifty-sixth article of war—what becomes of the specification? Benét in his Treatise says, “The charge designates the crime or offence; the specification alleges or specifies the act;” and further on says, “The specification to the charge must state the act in terms appropriate to that article.”

The specification charges that I relieved *the public enemy*, Chapman and Read, by giving them money. Are these two men in the sense of the first clause of the fifty-sixth article *the public enemy*? They may be two soldiers of *the* public enemy, but they cannot be properly designated and called the *public enemy*—the power with which you are at war—the southern confederacy. This view is strengthened by the language in the other clause of the fifty-sixth article, in which it declares it criminal to harbor *an* enemy. *The* enemy and *an* enemy are not specifically the same. The one alludes to the power at war; the other to an individual person. It is, as I have argued, or rather stated, (for to this intelligent court an argument is hardly required,) undoubtedly lawful to relieve *an* enemy—the captive of your hand—with necessary food. The same is true in regard to a paroled prisoner. But it is a crime to relieve *the* enemy by giving to its soldiers carrying on active hostilities money or food, if given with the motive and intent of giving aid and strength to the belligerent power. The specification to have been specific should have stated, in the words of the article, *the* enemy, (not Chapman and Read, for they do not constitute *the* enemy,) by giving this money to them, two of its soldiers, with the *intent* and *motive* of aiding and strengthening *the* enemy in carrying on the war. It should have stated the motive, if a bad one, with which the money was given, because it is not always a violation of the fifty-sixth article of war, as the specification has clearly indicated it to be, but in perfect conformity with that article, with Christian precept and common humanity, to relieve, as it is stated I did, certain description of your enemies—paroled prisoners of war.

The act specified in the specification does not necessarily relate to the charge under which the specification is made. The specification embraces a great deal more ground than the charge or the article of war, and it is, as the accused has attempted to show, both in form and substance fatally defective. A finding of guilty on the specification would not warrant a finding of guilty of the charge.

The accused has thus met this prosecution in every way, so far as this charge is concerned, and trusts of form, substance, and upon the merits, he is fairly and justly acquitted of the charge of relieving the enemy with money, in the reasonable and sensible construction of the article of war under which he has been arraigned.

From the course indicated by the judge advocate, it may be possible that he intends that the prosecution shall turn upon the technical construction by the Attorney General of the points growing out of the terms of the capitulation entered into between General Grant and General Lee, and the order of the War Department thereon.

It is clearly in proof by the witnesses of the prosecution that at the time the money was given to these parties—for the giving of the money preceded all conversation in regard to the order—the accused was entirely ignorant of such an order. The statement, in the conversation which followed the giving of the money, that there was an order of the kind, was not credited by the accused, being a statement of men in whose intelligence he had no confidence, and not being able to conjecture upon what ground it was based. It appears that he saw the order the next morning; and that he might not in the least mislead these men in regard to their position, he mounts his horse and rides to Leonardtown, where these men were, and informed them that they were correct in their statement in regard to the order: that I myself had seen it. This clearly displays a desire that these men should labor under no false impression from what he had said to them the evening before, and also shows that there was no disposition to do any act in contravention of the order of the War Department. I wish it, however, to be clearly borne in mind by this honorable court that all conversation in regard to the order, or in regard to any other matters of which the witnesses have given testimony, took place on that evening *after* the money was given to these parties.

That which is the gravamen of this charge against me is an entire and complete transaction, in no way affected by any asserted subsequent conversation. The act and the only motive for it are clear and unequivocal.

The judge advocate will not, surely, under such a state of facts, rest his prosecution of the accused upon the opinion of the Attorney General that these prisoners could have no homes in Maryland, or in any State outside of the southern confederacy. Will he contend and prosecute, under the circumstances, upon the idea that they, by coming into Maryland, had forfeited their parole, and were therefore to be treated as active enemies, and not paroled prisoners, and that all who, ignorant of the opinion, or of any order based thereon, at the time of the transaction, relieved these men with money or food, were guilty of a violation of the 56th article of war, and subject to be arraigned and tried for their lives?

It would ill become me to criticise the opinion of the Attorney General, but I must be allowed to say that I expect by the verdict of this honorable court to be rescued from any injurious consequences that might arise from such a narrow and illiberal prosecution. Thus to lay a trap and take advantage of its citizens would be unworthy of the government, leading, as it must, to the grossest injustice and cruelty. When I say this, I can scarcely think it possible that the prosecution will take such a turn.

The accused is not well versed in the proceedings and powers of courts martial, this being the first he ever witnessed; but he is impressed with the belief and opinion that if this honorable court sustains his view of the specification alleging the giving of the money, so often referred to, the several accusations which seem to be appended to the specification as aggravating circumstances merely should have no place in the consideration of your honors in a trial for violating the 56th article of war.

The alleged inciting the parties to continue in the army of the enemy, if true—which the accused in the most solemn manner denies—is not a violation of that article under which the accused is arraigned. It is neither giving money, victuals, nor ammunition to the enemy, nor was it harboring and protecting these men, in the words of that article. Clearly, the accused thinks, a conviction, if it could be had on that part of the specification, would not warrant a finding of guilty of the charge.

I have already argued the question and points arising under the first part of the first specification, showing its defects; and if this second part is not sufficient, then it must follow that the conjunction of the two insufficient parts cannot aid the case. Relying upon these legal views, I will still avail myself of the occasion to defend myself against the imputation thrown out in the testimony involving my integrity as a man and a citizen.

The accused has passed through the whole period of the late exciting and unparalleled conflict in which our country has been involved without a charge that he had violated, by any act or deed, his constitutional duty as a citizen being preferred against him until the present occasion. His long-entertained political opinions, and warm expressions of them, have no doubt met from opponents as ardently entertaining opposite ones decided denunciation. This is so natural, in high party times, as hardly to require a passing remark. He has taken the oath to support the Constitution of the United States, and the man does not live who can truthfully say that he has ever knowingly or intentionally violated it. He has had his opinions; he has had his sympathies. But sentiment or sympathy constitutes no branch of the law of treason. Acts, and nothing but acts, committed with guilty intent, in this country and by its Constitution, can sustain the charge of treason.

A citizen may condemn the course of his government as unjust, and really sympathize with the enemy, the victim of its injustice, and yet be guilty of no act to thwart its purpose or object. This has been often the case, even in this country. The war of 1812 and the Mexican war will suggest many instances. It was the case in England during our revolutionary struggle, when the great historic names of that country boldly proclaimed, in the hearing of their monarch, their sympathies with those whom they thought that monarch had oppressed. A citizen of Maryland opposed to the existence of slavery previous to its late abolition may have warmly sympathized with the slave, yet he would not entice the slave to abscond from his master, or knowingly harbor him when he had absconded, because the acts would have been a violation of the laws of the State. No, sirs: sympathy is too subtle and

ethereal to be the subject of human laws. Men may take forced oaths, may pretend not to entertain sympathy, but it will remain there still. The government may as well attempt to dam up the waters of the Potomac with wheat chaff—they may as well attempt to check the flash from the thunder-cloud—as to crush it. It is a telegram from God upon an honest heart. Right or wrong, it can be only really modified or changed through His intervention.

Declining, therefore, to defend myself before this honorable court so far as my opinions are concerned, unless they may be charged to have run into acts—declining also to defend the character of my witness against the insinuation that he might be swerved from the truth because of his having given me his political support—I proceed to make my defence not against any charge, under the 56th article of war, but imputations against my character as a man and a citizen.

It is alleged that I advised and incited Chapman and Read to continue in the confederate army and to make war upon the United States.

The testimony given in, in part, by the witnesses to sustain that charge is, that I declared it as my opinion that paroled prisoners were not obliged to take the oath in order to be allowed to go to their homes. I have in another part of this defence referred to my belief as to the rights of paroled prisoners to return under the capitulation between General Grant and General Lee. I have also shown that at the time of expressing the opinion I had not had the benefit of reading the opinion of the Attorney General or the order of the War Department; my opinion was based upon the then uncontested idea that free regress to their homes was agreed upon and granted by the terms of the capitulation to paroled prisoners who resided in Maryland before they joined the confederate service. The opinion of the accused was by no means singular, for the views he entertained seemed to be the generally received views of the whole people. With the impression that they were simply paroled prisoners, could not the accused, without the least guilt, state that they were not compelled to take the oath proposed? Impressed with the idea that it was unfair and dishonorable so to treat paroled prisoners, is he responsible for the expression of the opinion that it was so? That opinion was not volunteered, but was brought out by the declaration of Chapman “that he would prefer going home on his parole.” Let us look at his evidence to see how that part of the conversation arose. I quote from twenty-seventh page of the record:

“Question. Did you not tell me you did not want to take the oath?

“Answer. No, sir; I did not tell you anything like that.

“Question. Did not you tell me in the morning that you did not want to take the oath?

“Answer. No, sir; I told you I *would prefer going home on my parole*. I did not say I did not want to take the oath.”

A very truthful and discriminating witness, certainly. Let me repeat: “Did you not tell me you did not want to take the oath? No, sir; I did not tell you *anything like that*. I only told you that I would prefer to go home on my parole.” A distinction without a difference, surely: a refined distinction, well calculated to mislead the accused, if indeed it was wrong at all, to the delivery of the opinion expressed by him; a distinction, I may safely say, which could only arise in the mind of a witness more anxious for the conviction of the accused than for the delivery of the truth. The witnesses add, however, that “I told them not to take the oath, but be exchanged and go back and fight again.”

This I confess would be a grave offence, although not in violation of the 56th article of war, if it could be sustained by truth.

The accused in the most solemn manner, in the presence of Heaven and the world, denies the truth of this allegation.

It is true he can adduce no positive evidence to prove the negative, for no one is stated to be present except the prosecuting witnesses and the accused.

Relying upon and valuing a character unstained by guilt, he will attempt to show to this honorable court, from circumstances, that the advice could never have been given.

Before, however proceeding to do so, let me further animadvert upon the character and unreliability of the witnesses and their testimony, upon the frequent contradictions, improbabilities, and entirely false statements that fall from them.

In the first place, it cannot fail to strike any one that they are, for some cause or other to the accused unknown, what is termed willing witnesses, with hearts inclined to a successful prosecution of the accused, and with minds disposed to misinterpret and misunderstand the import of his language and expressions. This is apparent from the manner of giving in their testimony.

It is particularly to be observed in that passage of their testimony which I last quoted; as also in that in which, as I passed into Leonardtown on the morning after our interview, with the intention of letting them know that I had then seen the order of the War Department in regard to paroled prisoners, Chapman says to Read, “I wonder what made him give us that dollar apiece.” Their wonder as to the reason why I gave them that dollar must be considered the sincerest affectation. No one can, I think, by possibility have the least doubt as to the motive that prompted that small gift—a kindness which they may have considered a poor substitute for the privilege of becoming inmates of my dwelling for a whole night—one which excited their disgust instead of thanks.

But let me proceed with their contradictions. Chapman says expressly that I told them

in the morning to go to Leonardtown to report to Major Waite or Captain Willoughby, officers at that post. But Read says I told them not to go to Leonardtown and report. Chapman says in his various answers that I gave them one dollar each and told them to go to the hotel, or Mr. Clarke's. Read says, "to hotel, Mr. Clarke's, or some neighbor's." Then comes the mysterious return from my lawn to and through the front gate, in regard to which they do not, I believe, agree in one single one of the various statements made in relation thereto. I will undertake to condense for the benefit of the court the several statements of each, spread over a large portion of the record:

Chapman says: "I met the sergeant in the yard before I got to the gate, and when I got to the gate he was there. I saw the sergeant within four or five steps from the gate. I was in advance: Read was behind. I saw some one go out of the gate. When we got out Read went down the hill and said we had better walk faster, as it was getting dark, and this sergeant tapped me on the shoulder. Told Read next morning that I saw the sergeant at the gate; said nothing to him about it that night. Saw sergeant when about ten steps from the gate, and as he went out. Read and I went through the gate together. Read and I were together till we got to the gate. Read was behind me some four or five yards. Read and I went through together. I was ahead. I did not open the gate; it was already open."

Read says "he did not see the sergeant that night. I and Chapman were side by side when we went out of the gate. Did not see any one at the gate. Chapman and I went through the gate together. I went just ahead of him and left him to shut the gate. I was ahead and opened the gate. I opened the gate and stepped out, and Chapman was right close to me. When we went up the lawn to the gate Chapman was ahead, my arm just touching his. When we got to the gate I stepped right ahead and opened it. I missed Chapman and waited till he came up to me—came up in a minute or two. Chapman said, 'Don't be in a hurry;' his feet were sore. Did not say he saw the sergeant or any one."

Now here are matters which are apt to hook, as it were, in minds and memories such as theirs, yet it would be difficult to find in any statement so short, as many inconsistencies and contradictions, to say nothing of the statement, so surprising, that Read on that night did not see that sergeant.

It does not appear to have been very dark, for some time after, when they left Fenwick's, he could see them seventy yards off. The not telling his companion Read of his having seen the sergeant, and of his interview with him at the gate, is a feat of silence on the part of Chapman that is truly astonishing, and should be, if possible, accounted for.

The judge advocate himself felt that these wonderful and incredible statements should be sustained by the presence here of that sergeant as a witness. We were both anxious for his arrival, in order that these matters might be elucidated.

But this sergeant proves to be a myth. Like the ghost in Hamlet, he is here, there, everywhere, and nowhere. The most diligent search of Major Waite, with all the aid of his command, has been unable to discover him, and I have no doubt they will forever continue to be unsuccessful in their search. Leaving my gate, they went to a house which, from their own description, and the proof of Mr. Fenwick, can be no other than Fenwick's house. They swore they lodged there and paid fifty cents for their lodging. The testimony of Mr. Fenwick, a man well known in his community, of unimpeached and unimpeachable character, even though he did vote for me for Congress, proves this statement to be a plump falsehood.

Now, may it please your honors, shall the testimony of witnesses such as these—perfect strangers, vagrants and beggars, almost unable to state facts with any degree of consistency, and with the disposition to tell absolute falsehoods—is the testimony, I ask, of witnesses such as these sufficient to sustain a prosecution involving the life, liberty, or character of a citizen? And can any verdict of guilty be based upon such testimony, unsustained entirely so far as the only real imputation against the accused is concerned? I cannot and will not think it.

Now to the allegation that "I advised them not to take the oath, but be exchanged and go back and fight again."

To the mind of every intelligent man—and I hope the court will allow me to have some degree of intelligence—the unparalleled strife between the two sections of this country had, as it were, come to a close before the 26th of April. The armies of the north had been victorious, and the south had been subjugated.

The idea of southern independence could not have found a place in the head of a schoolboy. Lee's army, embracing an immense number of prisoners, had surrendered. Johnston's had capitulated, and, when the first terms were not accepted by this government, no one could doubt would surrender, as he did. Everywhere appeared evidence of the complete collapse of the southern confederacy. The south having no prisoners, and the north having them almost without number, that a man of common intelligence should have looked to an exchange of prisoners, by which these men might go back to the southern army and fight the government again, is incredibl.. What prisoners had the southern confederacy to exchange? None, against thousands and thousands on the other side. To have given such advice would have been a stultification of myself, and I have respect enough for myself to claim that I should not be proved a fool by such men as these. Their statement is in the teeth of every opinion I ever had, or statement I ever made, after Lee's surrender. This is all I can say in regard to this

allegation. They make the conversation entirely between themselves and myself; no one under such circumstances can defend himself except by circumstantial testimony, which is always stronger than the testimony of a witness which is marked by the most glaring inconsistency and reckless falsehood. The circumstances of the country, well known to me and to every educated and intelligent man, were too strong and striking to justify the belief that I could have given such advice to these men as they have stated I gave.

Thus, may it please this honorable court, I have gone through my defence, to which you have so patiently attended. Although the members of the court are perfect strangers to the accused, I have no reason to fear, from their elevated character, but that they will give a fair and impartial consideration to every argument I have adduced relating to the law and evidence. The members of the court (says the highest authority, Benét) should reason and deliberate separately on each charge and specification, candidly discussing the import of the evidence, and allowing its full weight to every argument in favor of the prisoner.

I have no doubt that your honors will pursue this course; and, in doing so, I entertain the strongest hope that your verdict will restore me to the arms of my distressed and suffering family.

B. G. HARRIS.

#### REPLY AND ARGUMENT OF THE JUDGE ADVOCATE.

GENERAL COURT-MARTIAL, 467 FOURTEENTH STREET,  
Washington, May 11, 1865.

**GENTLEMEN OF THE COURT:** The accused in this case is charged with a violation of the 56th article of war—first, in relieving enemies of the United States with money; and secondly, with harboring and protecting them by procuring them lodging and food; both these crimes being denounced in the article referred to, and made punishable with death or some inferior penalty at the discretion of the court.

In the specifications are briefly set forth the circumstances surrounding these offences, which go to show the animus of the accused—a most important element, as will be perceived, in the proper estimation to be formed of his acts.

Before proceeding to review the testimony which has been produced upon the trial, I will ask the attention of the court to certain questions of law which may be deemed to be properly raised by the case, and to certain objections which have been taken to the testimony; not indeed to the introduction of the testimony, but to the effect of such testimony as presented by the record.

I. In the first place, as to the jurisdiction of a court-martial to try a civilian for a violation of this article.

As this question of jurisdiction has not been urgently pressed by the accused, little more is necessary than to call your attention to the views upon this point of several well-known authorities on military law.

O'Brien, in his work on "American Criminal Law and Courts-martial," pp. 146 and 147, (edition of 1846,) remarks as follows:

"The 56th and 57th articles relate to offences closely allied to treason.

"The 56th enacts that whosoever shall relieve the enemy with money, victuals, or ammunition, or shall knowingly harbor or protect an enemy, shall suffer death, or such other punishment as shall be ordered by a court-martial. The 57th provides the same penalties against whosoever shall be convicted of holding correspondence with or giving intelligence to the enemy, either directly or indirectly.

"It will be observed from the word *whosoever*, contained in these articles, that their provisions are applicable as well to those in civil life as to those who belong to the military state. These and the articles relating to spies are the only instances in which a military court has any jurisdiction over persons not belonging to or commorant with the army. The cause of this deviation from the general rule is to be found in the nature of the crimes guarded against, in the difficulty, if not impossibility, of bringing the offenders before a civil tribunal, and in the necessity of a prompt and immediate example."

Captain Benét, in his recent work on "Military Law and Courts-martial," page 220, appears to regard this point as already so well determined at the War Department as to require no further comment. He quotes, in illustration, the General Order of the Secretary of War, No. 67, of August 26, 1861, in which, after a reference to the terms of the 57th article, it is declared that *all persons* who shall, without proper sanction, have or carry on any correspondence or communication, verbally or by writing, printing, or telegraphing, respecting operations of the army or military affairs, &c., by which intelligence shall be, directly or indirectly, given to the enemy, shall be proceeded against under this article.

It is thus declared by the highest military authority that all persons, civil or military, without limitation, are triable by court-martial under the 57th article; and, as has been remarked, the language of the 56th article being the same, the same principle of construction which applies to the one is to be applied to the other.

Lastly, this question of jurisdiction has been repeatedly passed upon by the Judge Advocate General of the army, and his decisions to the effect that civilians are amenable to trial by court-martial for the offences set forth in both these articles will be found referred to in the Digest of his opinions, pages 6, 7, 79, and 80. On page 6, under the head of the "57th article," he observes:

"Under this article a court-martial has jurisdiction of the cases of civilians as well as of persons in the military service. That this was the intention of the article is well ascertained by its history, and is evident also from the consideration that those who would be most likely to give intelligence to and correspond with the enemy in time of war would be persons other than military, and that therefore, in order to guard against such persons, it was necessary for Congress to enact this article as a '*proper and necessary*' measure for rendering effective the war-making power."

Further, on pages 79 and 80, he meets not only the objection that these articles do not confer the jurisdiction in question, but the objection that if conferring it they are unconstitutional, in the following language:

"The amendment of the Constitution which gives the right of *trial by jury* to persons held to answer for capital or otherwise infamous crimes, except when arising in the land or naval forces, is often referred to as conclusive against the jurisdiction of military courts over such offences when committed by citizens. But though the letter of the article would give force to such an argument, yet, in construing the different parts of the Constitution together, such a literal interpretation of the amendment must be held to give way before the necessity for an efficient exercise of the WAR POWER which is vested in Congress by that instrument.

"A striking illustration of the recognition of this principle by the legislation of the country since an early period of our history is furnished by the 57th article of war, in the fact that it has, from the beginning, rendered amenable to trial by court-martial for certain offences, not only military persons, but all persons whatsoever. This article, establishing this jurisdiction, was adopted by the Congress of the confederation, and its terms and effect remained unaltered at the time of the formation of the Constitution. In 1806 a slight modification was introduced in its language—the substitution of the word '*whosoever*' for the words '*all persons*:' and thus a Congress, composed probably of many of the founders of the republic, substantially reaffirmed the jurisdiction previously conferred."

It is thus seen that if these articles are unconstitutional, the men who made them, and who at the same time made the Constitution, were not aware of the fact.

From these authorities it is perceived that no doubt can well be entertained that a court-martial has properly taken cognizance of this case as a violation of the 56th article of war, and that that article is a constitutional enactment.

It may be added in this connexion, that it appears from the records of the Bureau of Military Justice that a considerable number of cases of civilians tried by court-martial under these two articles have been finally disposed of during the past two or three years. Of these may be referred to, as the most marked, the cases of John H. Waring, Haswell Magruder, F. A. Luling, and Joseph Ellison, tried (the first two in Washington, the other two in New Orleans) for a violation of the 56th article, and those of William T. Smithson and Samuel Sterrett, tried (the one in Washington and the other in Baltimore) for a violation of the 57th article. The important case of B. S. Osbon, now being prosecuted in New York city, is of the same class. All of these parties, except the last named, were convicted and sentenced, and their sentences were approved and carried into effect by the proper authority—in the cases of Waring, Magruder, Smithson, and Sterrett, by the Secretary of War.

II. The objection next advanced by the accused is one of *form*, and is taken to the second specification, which, it is claimed, is insufficient in law, because not setting forth at whose house lodging, &c., was caused to be procured for the rebel soldiers by the accused. This is a *plea in abatement*, or in the nature of a *demurrer*, and was not interposed till after the plea of not guilty, and, indeed, not till after the case had been closed on the part of the government. But a demurrer is not admitted in military courts, (De Hart, p. 147,) and it is, moreover, a principle of law too well known to be dwelt upon here, that a plea in abatement cannot be offered after the general plea of not guilty has been presented. The latter plea is therefore held to *cure* all such formal defects in the specifications as might have been taken advantage of on the plea in abatement. Thus it is held by the Judge Advocate General (Digest, p. 95) that the plea of not guilty will, in the case of the specification to a charge of desertion, cure such defects as not describing the accused by his rank or regiment, not alleging his enlistment, or not stating that his absence was without authority.

Further, it is to be remarked that this class of pleas, called dilatory pleas, are encouraged by military courts even less than by the civil courts, and De Hart (p. 146) observes, in this connexion, as follows:

"The same technical nicety which courts of civil jurisdiction observe in criminal cases is not desirable or necessary in the proceedings of a court-martial, and exceptions made to form or matter are only admitted by them when such appear essential to abstract justice."

It is submitted, therefore, that this plea, even if taken at the proper time, could not have availed the accused, inasmuch as his rights have been in no way affected by reason of the general allegation in question. He has not suffered in his defence, but has had ample opportunity to produce, and has in fact produced, the very person on whose premises lodging

was furnished, and the place where the food was obtained has been pointed out as clearly as the testimony at the disposal of the government would allow.

It is to be added that the court, as will hereafter be suggested, may, if it deems it expedient, make a special finding upon this specification, indicating the precise facts proved, in the place of the general allegation, and thus obviate the possibility of the accused being again brought to trial for the same offence.

This objection requires no further comment.

III. The third objection to be noticed is one which has been taken and argued by the accused, and is this: that the testimony of Chapman and Read, being that of *enemies*, is not to be credited when offered against a citizen of one of the United States not in insurrection.

It has, indeed, been ruled by the Judge Advocate General (Digest, p. 55) that the testimony of persons of known disloyalty, when offered against a loyal man, though not to be rejected altogether, is to be received with caution, unless corroborated. In other words, the objection is one which goes not to the competency but the credibility of the witnesses. Now, the accused does not speak of himself as a *loyal* citizen, but only as a "citizen;" but let it be granted, for the sake of a proper consideration of this objection, that being a member of Congress, who, as such, has sworn to support the Constitution and laws of the United States, he is, apart from any testimony to the contrary, to be taken to be *prima facie* a *loyal* citizen, for the reason that none but a loyal citizen could, without perjury, take this oath. Then it is necessary, in order that the objection shall apply, that the witnesses shall be concluded to be disloyal persons. But though these men were technically enemies, it is submitted that no such disloyal conduct is attached to them by the evidence as can properly avail to discredit their testimony. It is shown that both were not only *willing* but *anxious* to take the *oath of allegiance* to the government of the United States, and that they steadfastly resisted all urging on the part of the accused to the contrary; further, that in desiring to take the oath they were induced by a becoming and laudable feeling of subordination to law, viz., to the order of the Secretary of War in regard to the *status* of paroled prisoners, with which they had just been made acquainted. They deprecated also the acts of the murderer of the President, and Read expressed a strong desire that he might assist in his apprehension; and they further declared it as their opinion that Jefferson Davis should be lying dead beside President Lincoln. Indeed, their language throughout the interview was that of men of good instincts and worthy views, and, for men in their peculiar position, strikingly laudable. That the court believes in the sincerity of these men, whom they had here before them, and whose manner and words they could criticise and duly weigh, I cannot doubt. Indeed, it would be difficult to find among our most patriotic citizens or soldiers a man who would appear better or more honestly and ingenuously than Read, the more intelligent of these two witnesses.

Recurring again to their conduct and conversation at the interview, it is to be remembered (and this is a most important consideration) that their language was not addressed to an officer of our army, or to a known Union man, from whom they expected some advantage, in which case its sincerity might have been open to suspicion, but to a person whose sentiments, as expressed, showed him to be a full sympathizer with the cause which they had themselves concluded to abandon.

And this brings me to notice the second branch of the objection in question. This citizen of a State not in insurrection—*prima facie* loyal, because, as a member of Congress, he has taken an oath to support the Constitution and laws—is he, when the testimony is referred to, found to have conducted himself on this occasion as a loyal man, or were his conduct and conversation such as to rebut the presumption of his loyalty arising from his having taken the oath in question?

Well, gentlemen, I propose, when I come to speak of the *animus* which characterized the act of the accused, to fully consider the nature of the sentiments expressed by him upon this occasion. At present it will be sufficient for me to submit to you my opinion that sentiments more bitterly disloyal and more utterly in sympathy with the rebellion could not well be conceived than those proved to have been uttered by the accused. If this view is approved by you, you will perceive that the objection under consideration falls to the ground. Not only do the witnesses *not* appear as unworthy of credit because of enmity to the accused as a loyal citizen, but the accused, on the other hand, is presented to you, not as a patriotic and loyal citizen, faithfully observing the Constitution and laws of his country, by which he had sworn to abide, but as an ardent sympathizer with the public enemy.

The objection in question comes, therefore, from the accused with a singularly ill grace. Indeed, upon the testimony, the relative positions of himself and the witnesses are the reverse—precisely the reverse—of what they should be in order that this objection should possess weight in law.

But further: this objection, which goes, as has been said, only to the credibility of the witnesses, is met by the fact that their testimony is *corroborated* in very material particulars by that of the witness Stewart, a United States soldier, in his testimony in regard to the admissions of the accused. Not only does he show that when these soldiers informed the accused of the order prohibiting their entering our lines and expressed their readiness to take the oath, the accused insisted that they could not be obliged to take it, but he also testifies to the payment of the money for the purpose of obtaining food and lodging, and, more than this, that the accused offered to give them more money if they needed it. The witness therefore

not merely corroborates the others, but shows that the accused went even further in his free and voluntary offers of relief than is represented by the witnesses whom it is sought to discredit. It is, indeed, in view of this corroborative evidence, taken in connexion with the sentiments proved to have been expressed by the accused, that it was thought unnecessary on the part of the government to offer the testimony in regard to general character for disloyalty which it was at first deemed advisable to propose.

IV. It is further objected that the accused cannot, upon the testimony, be held guilty of having relieved or harbored and protected *enemies* of the United States, inasmuch as the two confederate soldiers were no longer *enemies* in the sense of the article, having been *paroled* and allowed to return to their homes.

I propose to answer this objection by showing:

1st. That the mere fact that these men were *paroled prisoners* in no respect modified their *status as enemies* in the sense of the 56th article.

2d. That the *specific* parole and privilege accorded to them by the terms of the capitulation in no respect modified this status.

3d. That at the time of their being relieved by the accused they had actually *violated* their parole, and were for *this* reason only to be treated as enemies; and that the accused was fully informed of this violation.

1st. In the first place, it is hardly necessary to quote authority to the effect that ALL PERSONS engaged in the rebellion are *enemies* within the meaning of the article. I may as well refer, however, to the opinion of Justice Grier in the prize cases, (2 Black's U. S. Reports, 635,) to the effect that neither the fact that they are not foreigners nor the fact that they are traitors can prevent such persons from being viewed, NOT ONLY IN THE MASS BUT AS INDIVIDUALS, as public enemies. In connexion also with the observation of O'Brien, that the crimes denounced in the 56th article are "closely allied to *treason*," I would refer to Simmons, (Courts-martial, sec. 1070.) who classes under the term "*enemies*," (whom to aid is to be guilty of treason,) not only foreigners at war with the country, but "our own fellow-subjects, when in actual rebellion;" and also to Foster, who, in the same connexion, aptly says, ("Crown Cases," p. 217,) "Furnishing rebels or enemies (that is, foreign enemies) with money, arms, ammunition, or other necessaries, will *prima facie* make a man a traitor;" (that is, guilty of treason.)

Deeming it fully established, then, that these men were, as rebel soldiers, public enemies in the sense of the article, how can it be held, with any show of reason, that they were any less enemies upon being *paroled*? Did the parole formally discharge them from the rebel service? Certainly not: they were as much sergeant and private of the 32d Virginia regiment, in that service, as before. Did the parole in any other way relieve them from such service? Certainly not; for they were liable at any moment to be exchanged, even without their knowledge, and to be ordered back to their regiment for active duty. What, therefore, was its effect? Simply to exempt them from capture or attack by our own forces till exchanged; while in the mean time the correlative obligation was imposed upon them to abstain from doing active military duty in the field. I say active duty in the field, because there remained still much important military service which they were liable to be called upon by their superiors to perform. Thus Lieber, in his Treatise, published in General Order No. 100, of the War Department, of 1863, informs us (paragraph 130) that paroled prisoners may be required by their government to perform internal service, such as recruiting or drilling recruits, fortifying places not besieged, quelling civil commotions, &c. It is seen, therefore, that there are a variety of duties of no slight consequence for which the paroled prisoner is still subject to the orders of his commander: a circumstance which indeed illustrates most forcibly the fact, which has just been noticed, that the parole in no way separates him to whom it is granted from the army in which he previously served, or relieves him from responsibility as a soldier therein.

Without further elaborating this point, which seems quite clear, I would add that I know no better illustration of the principle that the parole makes no difference in the status of the prisoner *as an enemy* than that presented by the English statute known as the 52 George III, chap. 156. This statute, which regards the offence of aiding the escape of a prisoner of war, provides (see Russell on Crimes, vol. 1, p. 437) as follows: "Every person who shall knowingly and wilfully aid or assist any alien enemy of his Majesty, being a prisoner of war in his Majesty's dominions, whether such person shall be confined as a prisoner of war in any prison or other place of confinement, or shall be suffered to be at large in his Majesty's dominions or any part thereof on his parole, to escape from such prison or other place of confinement, or from his Majesty's dominions, if at large upon parole, shall, upon conviction, be adjudged guilty of felony, and be liable to be transported for life or for fourteen or seven years."

This statute, as a presentation of the principle contended for, must be regarded as most valuable, because not expressing the opinion of a text writer, but the conclusion of a legislature, and not the legislature of a petty power, but the Parliament of a kingdom of Europe, whose history has been a succession of wars, and whose legislators may be supposed to have been fully acquainted with the subject embraced in the enactment. The statute not only contemplates no difference in the status of an ordinary prisoner of war and a prisoner on parole, but enacts that the offence of aiding the escape of the latter shall be precisely the same

(and to be visited with the same penalty) as that of aiding the former. It thus formally and deliberately recognizes the principle of law which, as we claim, governs this part of the case, and is probably the most apt and admirable authority that could be referred to upon the subject.

Moreover it appears that this same principle has always been recognized by the *common law* prior to the enactment. The writer already quoted, Russell, goes on to show, in connexion with his citation of the act of Parliament, that the same offence which is made a *felony* by the statute was a *misdemeanor* at *common law*. Under this statement he quotes the case of *Rex vs. Martin*, 1 Russell & Ryland, 196, which I find to be a case of an indictment at *common law* for a misdemeanor in aiding the escape of a *paroled prisoner* of war. This case passed off upon a point of evidence quite foreign to the present inquiry, and is only referred to as an instance in which an indictment of this character was formally adjudged upon without objection made to its validity at law.

I need here hardly remind the court that the common law, where not modified by State legislation, is as much a part of the law of this country as of Great Britain; and inasmuch as the common law has been in no way modified in this respect in the State of Maryland, it follows that an indictment at common law for aiding the escape of a paroled prisoner would at this very day be sustained by the courts of Maryland, for the reason that it is at this day the law of Maryland that to give such aid to a paroled prisoner is a misdemeanor.

It is to be added that this reference to the English statute and to the common law is *especially* applicable to the present case, for the reason that aiding the escape of a prisoner is an offence of the *same class* as that with which the accused is charged. He also is charged with *aiding* the prisoner, though in another but equally effective way, and both offences are of the same class; being each, to repeat the language of O'Brien, "*closely allied to treason.*"

2d. But, to proceed to the next step in the argument, it is claimed that if even the relieving of an ordinary paroled prisoner is relieving an enemy under the 56th article, there was something in the status of *these* prisoners which made their case an *exception* to the common rule; this exception being supposed to be discovered in the terms of the surrender of the rebel Lee to General Grant, and especially in the last condition of the capitulation, which is as follows: "This" (the turning over to our officers of the enemy's munitions of war, &c.) "done, each officer and man will be allowed to return to their homes, not to be disturbed by United States authority as long as they observe their parole and the laws in force where they may reside."

It is claimed by the accused that, under this condition, the paroled prisoners Chapman and Read, who before the war appear to have resided in Baltimore, in the State of Maryland, were entitled to be and reside in that State at the time of the act charged, and therefore that to relieve or harbor them in that State was not to relieve or harbor an *enemy* in the sense of the article.

We are fortunately furnished with a final answer to this position in the admirable opinion of Attorney General Speed, of the 22d April last, published, by order of the Secretary of War, to the army and to the community, on the 24th of the same month, in General Order No. 73 of the War Department.

Mr. Speed commences by calling attention to the fact that in agreeing to the stipulation in question, General Grant acted not as the representative in any respect of the President as a civil functionary, but simply in a military capacity, under the authority of the President as commander-in-chief; that the general extended to the enemy no *pardon*, for the pardoning power belongs to the President alone and cannot be delegated, but that he treated with them, as a belligerent with belligerents, and in a military character alone.

Mr. Speed next goes on to show upon the authority of the ruling in the prize cases, which I have already referred to, that, the rebels individually and as a mass being belligerent enemies, the territory within their lines and which they occupy is enemy's territory, separated from that within our own lines by a wall of bayonets, an impassable barrier; that this barrier was raised of necessity by the state and prevalence of war, which from the moment of its commencement precluded all intercourse with the enemy and all passage within his territory; that "all persons going" into this territory "without license pending the hostilities, or remaining there after hostilities commenced, must be regarded and treated as residents of that territory." He then adds: "It follows as a matter of course that residents of the territory in rebellion cannot be regarded as having homes in loyal States. A man's home and his residence cannot be distinct the one from the other. The rebels were dealt with by General Grant as belligerents. As belligerents their homes were of necessity in the territory belligerent to the government of the United States. The officers and soldiers of General Lee's army, then, who had homes, prior to the rebellion, in the northern States, took up their residences within the rebel States, and abandoned their homes in the loyal States; and when General Grant gave permission to them, by the stipulation, to return to their homes, it cannot be understood as a permission to return to any part of the loyal States."

The Attorney General further proceeds to illustrate his opinion by distinguishing a capitulation and surrender of a certain part of the enemy's forces from a general truce or suspension of hostilities. He shows also that even in the case of a truce either of the powers agreeing thereto may prohibit the enemy from coming within his territory, and that the rights of those who are allowed to enter such territory are greatly restrained; and he then adds: "Now

if the rights of enemies, during a long truce and suspension of hostilities, are thus restricted, it would seem evident that their rights under a capitulation of surrender, without any suspension of hostilities, could not, without express words in the stipulation to that effect, be anything like as large as under a truce and suspension of hostilities."

The opinion concludes as follows: "Regarding General Grant, then, as speaking simply as a soldier, and with the powers of a soldier; regarding this war as a territorial war, and all persons within that territory as residents thereof, and, as such, enemies of the government; and looking to the language of the stipulation, I am of opinion that the rebel officers who surrendered to General Grant have no homes within the loyal States, and have no right to come to places which were their homes prior to their going into the rebellion."

Such is the conclusion of the Attorney General of the United States, based upon the authority of a judgment of the Supreme Court of the United States and of the most approved writers on international law. Such also, it is submitted, must be the conclusion of this court, sworn, as it is, to administer justice in this case.

It is to be observed that this opinion is referred to not as *creating* the law upon the point in question, but as applying to the case under consideration principles of law which have always existed, and which, indeed, the accused was bound to know. Vattel is referred to, but writers older even than Vattel have laid down the same views; and it will be found that none, whether of an earlier or a later date, contemplate the possibility of prisoners of war being allowed, without an express and general truce, to proceed at will from their own territory to that of the enemy and remain or reside there.

All the authorities, indeed, hold that prisoners of war may be permitted upon their parole to reside unmolested *in the territory of their own government*, but no more than this. Wheaton, (International Law, p. 590,) citing the principle of these authorities, expresses their view in saying, "Sometimes prisoners of war are permitted by capitulation to *return to their own country* upon condition not to serve again during the war, or until duly exchanged." Halléck, also, quotes English, French, German, Spanish and American writers to the same effect; and the same principle is presented in brief in the work which the general in the field would most readily consult—Scott's Military Dictionary, p. 657; (the latter author on p. 659 also carefully distinguishing between a mere capitulation and a truce, armistice, or suspension of hostilities.)

But none of the writers go further than as above quoted; and, in view of this uniform presentation of the law, it is submitted that it cannot be supposed that General Grant intended in his stipulation with Lee to allow any larger license than that sanctioned by international law. It is conceived that he could not but have had in contemplation the actual situation and relations of the belligerent parties, and the changes which the prevalence of war had inevitably made in the domiciles and social *status* of those who formerly resided in the loyal States; that he must have intended that the capitulation should apply to the existing state of things only; and that he had no idea whatever of conferring upon the officers and soldiers of the rebel army rights before unknown to the intercourse of belligerent enemies.

But the accused relies greatly upon General Grant's Special Field Order No. 72, of April 10, providing that the paroled officers and men, who to reach their homes are compelled to pass through the lines of the Union armies, shall be allowed to do so, and to pass free on government transports and railroads; and he argues that General Grant here formally interprets the capitulation in support of the theory of the defense, and in terms authorizes paroled prisoners to come within the loyal States to their former residences therein. Now, if such were General Grant's interpretation, it would be counter to the law, and would not be entitled to weigh with this court; but the interpretation contended for is by no means to be necessarily inferred from the language of the order. Indeed, in the light of existing laws this order can only be properly held to mean that when paroled officers or soldiers of Lee's army, in seeking their homes in the south, encounter the lines of any of our armies—as, for instance, those of the army of Sherman in travelling southward—they shall be allowed free passage through the same.

But this question of interpretation and of General Grant's intention in this matter is finally set at rest by his three successive telegraphic orders to General Ord, of April 18, 19, and 20, by which he is clearly shown to have contemplated in his agreement with Lee those very principles of law which, as we contend, govern this case, and which have already been quoted as set forth in the opinion of the Attorney General. To establish this it will be sufficient to cite from the order of April 19, signed by General Grant himself: "We cannot undertake," he says, "to bear all the hardships brought on individuals by their treason and rebellion. It was no part of the agreement that we should furnish homes, subsistence or transportation to Lee's army. After the surrender I ordered that the paroles of men should be a pass to go through our lines to reach their homes, and that, when transported on roads or vessels run by government, fare should not be collected. I did not by any means intend that this should be an excuse for all who chose to come within our lines and stay there, a public charge; or that men going to North Carolina or Georgia should be furnished a pleasant passage through the north and coastwise to their homes. Those living beyond our lines or in the seceded States, before they can come north must qualify themselves as citizens by claiming and conforming to the President's amnesty proclamation."

This language admits of but one construction, and I will not dwell upon it. I may add

that although these orders refer more particularly to the cases of those soldiers whose homes are in the more southern States, the terms which have been quoted are comprehensive enough to include all the soldiers of Lee's army; and it cannot, certainly, be claimed that it was intended to give *any* portion of these soldiers larger privileges than are accorded to the mass.

3d. The objection that in relieving and harboring the paroled prisoners the accused was not relieving and harboring *enemies* is answered, thirdly and lastly, by the fact that the soldiers Chapman and Read, at the time of being so relieved, had actually, and within the knowledge of the accused, *violated their parole* by coming into the State of Maryland, and that, having so violated it, they were no more than ordinary enemies, liable to be attacked and captured anew as prisoners of war. That they *had* so violated their parole follows necessarily from the considerations already presented, and is shown by the Attorney General, whose opinion to this effect has been fully discussed above. The point to which I wish to call the attention of the court is, that the accused, while bound to know the law, was furthermore fully informed of this very opinion, and was, therefore, without any legal excuse whatever for his acts. The government has not, indeed, attempted to show—what would probably have been impracticable—that the accused actually read the opinion in question before his interview with Chapman and Read; although it is somewhat extraordinary that *they* should have seen the paper in which this opinion was contained, and yet *he not* have seen it. It *has* been shown, however, that Chapman and Read asserted to him, and asserted most confidently, and not once but repeatedly, that they had seen and knew of such opinion, or, to use their more positive term, "*order;*" and, moreover, that they had not informed *themselves* of such order—for in that case their information might have been doubted—but that they had derived their information from the most authoritative and reliable official source, to wit, from the officer in command of the United States troops at Leonardtown. This was a source which the accused could not question; he was well aware that Major Waite was in command at the post; that he was the authorized military representative of the government; that as such it was his business to be acquainted with orders of the War Department, such as the present one, which he would undoubtedly be called upon to observe and execute; and that, as Chapman and Read were paroled prisoners and were in Major Waite's charge, he would be most likely to communicate to them the substance of an order which so immediately concerned them. Of all this the accused was aware: he therefore had every reason to believe that the information conveyed by these men, positively asserted and reiterated as it was, was quite to be depended upon.

It is conceived, therefore, that it is not too much to hold that at the time of the acts charged against him as criminal he was sufficiently made acquainted with the fact that the parties were unlawfully in the State of Maryland, and had consequently violated the obligation of their parole, and, accordingly, that in relieving them he was aware that he was treasonably aiding the public enemy.

The argument is not one necessary to the case, for the accused, especially in view of his profession as a lawyer and a legislator, must be supposed to have known the law in any event, and the order in question added nothing to the law as it had previously existed; but this argument is a useful one because presenting the consideration that the accused, even if no more than put on his guard and inquiry by the information in question, had certainly no just excuse for relieving these soldiers on the ground that he did not understand their status as enemies.

I have thus endeavored to meet all the *objections* taken by the accused, and to establish that he is, *in law*, guilty of the specific *charge*—a violation of the 56th article of war.

It remains only to consider—Ist. The *proof* of the averments in the *specifications*. 2d. The *animus* which characterized the acts as proved.

1. As to the proof, it is quite evident that the relieving the enemy with money, as set forth in the first specification, is fully made out by the testimony. It is shown that the accused voluntarily paid Chapman and Read two dollars for the purpose of procuring them lodging and food, and that he paid it to them knowing that they were confederate soldiers. The first specification may thus far, then, be clearly found by the court to be *proven as laid*.

As to the averments of the second specification, it is deemed to be also clear that they are substantially made out. It is not conceived necessary to the proof of the crime of harboring an enemy that the lodging should be furnished for him on the accused's own premises. If he furnishes the enemy with the means to obtain it, directs him where to obtain it, and he actually does obtain it, the offence must, it is believed, be held established. In the present case the accused, objecting to taking the men into his own house for reasons of a *merely personal character*, instructs them that with the means with which he has provided them they can procure lodging at any house in the neighborhood or at a hotel. Under these directions they proceed at once to a house in the vicinity, that of the witness Fenwick. This man, a friend, constituent, and political supporter of the accused, would have had this court understand, on his direct examination, that he altogether refused the soldiers a lodging, turned them away, and saw them no more. On his cross-examination, however, it appeared that he did furnish them a lodging, not in his dwelling-house, but, what is the same thing in law, on his premises—namely, in his barn; and from his own reluctant testimony, in connexion with the testimony of the parties themselves, it sufficiently appears that they *did* lodge there that night.

It is to be observed that neither Chapman nor Read testifies that they lodged in the *house*. They indicate the situation of the house for the purpose of describing the locality, but do not speak of entering it or remaining in it. But even if they did, their evidence would not necessarily be discredited in this respect, for not only is the general term "*house*" used in common parlance to include the premises also, but is, in strict law, held to mean the same as *messuage* and to include the adjacent buildings and surrounding land.—(4 Rawle's Reports, 339; 4 Barr's Reports, 93.)

As to whether the rebel soldiers paid for their lodging at Fenwick's there is a discrepancy in the testimony; Read testifying that they paid fifty cents therefor, and Fenwick that they paid nothing. The statement of Read was in answer to a question whether he and his companion paid for their "lodging," but it would seem from the testimony of Fenwick that the term "accommodation" was used when they applied to him. Read might, therefore, have misapprehended the word "lodging," and supposed that it referred to the food procured on the next morning; though, as between this witness (in view of his excellent appearance on the stand, and his laudable conduct and language in the interview with Harris) and the witness Fenwick, the friend and sympathizer of Harris, it is conceived that no unprejudiced person could hesitate in adjudging to the former the superior claim to credibility.

Whether, however, Fenwick was actually paid or not can affect in no respect the guilt of Harris. If he gave the money for the purpose indicated his criminality would remain the same, even if no part of that money was expended by those who received it. It is for this very reason that the payment of the money is not *alleged* in the specification.

It is further averred in the second specification that the accused proenred the rebel soldiers to be *fed* as well as lodged. In support of this averment, their testimony is positive to the effect that they breakfasted at the house of a negro, who represented that he lived on the land of Harris, and to whom they paid twenty-five cents, each, of the money furnished by the latter. The accused has not undertaken to disprove this statement, but only to deprecate its weight by certain testimony of Fenwick, intended to show that there is no negro house in the precise locality described by Chapman and Read. It is, indeed, quite possible that these men, utter strangers as they were to that region, may not have described the situation with the accuracy which might have been expected from an old resident. Their statement, however, remains substantially unimpeached, and, in the absence of any direct evidence to the contrary, must be taken to be substantially correct. It must, therefore, be deemed sufficiently established that the rebel soldiers were both lodged and fed as testified by them, and as the accused is shown to have furnished them money for this express purpose, he must be taken to have harbored them in law. While finding the specification proved, however, the court may, unless they adopt the ordinary and legal meaning of the term "house" before alluded to, *except* this word in their finding and substitute the word "barn;" indeed, in order to present the precise facts of the case, as well as to protect the accused from a second trial for the same offence, the court may properly enough make upon this specification some such special finding as the following: "Guilty, except as to the words '*and fed in a private house*,' and substituting therefor, after the word 'lodged,' the words '*in the barn of A. F. Fenwick, adjacent to his private house, and fed at the house of a negro, situated on or near the land of said Harris*''"

Such substitution is well known to be a common practice with military courts, especially when, as in the present case, the charges are prepared without the advantage of a previous interview with the witnesses.

Before proceeding to the question of the *intention*, I will here remark in regard to the evidence in general, that all the testimony of fact or motive which could properly, in law or by reasonable diligence, be offered, was produced on the part of the government before closing its case. Both the witness Fenwick and the negro who has been alluded to would have been introduced for the prosecution had it not been for the fact that their evidence would have exonerated them, and that it was therefore not competent to call them. They would, indeed, have only served to corroborate the main witnesses, who, by the testimony of Stewart and a portion of that of Fenwick, are already, it is believed, corroborated sufficiently and to the satisfaction of the court.

In reference to the alleged *discrepancies* in the testimony of Chapman and Read, I ask the attention of the court to the fact that, in regard to the material, capital facts in the case, there is really no conflict between them. Wherever they have differed it has been in comparatively immaterial particulars, and it is thought rather to add to than detract from the effect of their testimony as a whole, that these slight and natural differences are perceived, inasmuch as they show that the witnesses were offering their own original statements, and without previous suggestion or instruction as to form or substance.

The most obvious of these discrepancies is found in their account of the interview with the accused in the morning of the 26th; but this may be explained by the fact that the accused addressed them separately, and that the one might not have heard all that was said to the other. What occurred on this morning between the parties was, however, quite *irrelevant* to the issue. If anything which requires mention is shown, it is merely that the accused indicated the officer by whom the lost parole of Read might be supplied, and sought further to aid and encourage these men by the information that this officer was in the habit, to quote the language in the record, of "*looking at the prisoners and letting them go.*"

Here, also, may be disposed of the claim that because Major Waite, on the night in question, had authorized these men to remain at a private house, the accused, a citizen, was justified in his relieving them. The men, it is to be remembered, were in the charge and custody of Major Waite as commanding officer of the post. It was his duty, as such officer, to provide for them until they should either be disposed of as prisoners of war who had violated their parole, or be allowed to take the oath of allegiance. That he required or permitted them as prisoners to proceed to a certain house, there to await his orders, conveyed no authority whatever for any citizen, acting independently of him, to relieve them *as enemies*. But this is too clear for further argument.

Here, too, is to be noticed a further effort made by the accused to discredit the witnesses Chapman and Read. After the defence had been formally closed, and the court had adjourned over one day to give the accused time to prepare his written address, he comes into court and asks to be allowed to reopen his defence by showing, by the duplicate roll of the paroled prisoners of the 32d Virginia regiment, that these men were not paroled, inasmuch as their names are not contained on this roll.

Overruling the objection of the judge advocate to the introduction of this evidence at this stage of the case, the court indulgently permitted the testimony to be offered, and adjourned for an hour in order that it might be procured. The roll was then admitted; but though the names of the men were not found thereon, it fully and conclusively appeared from the testimony of the officer from whose custody it came, and who was the agent of General Grant in preparing the rolls and giving the paroles at the capitulation, that the absence of their names constituted *no evidence whatever* that these men were not duly paroled. This was not only the effect of the testimony, but this General Sharpe swore, in terms. His testimony is so recent in your recollection, gentlemen, that I will not now review it, but will simply submit to you that here again the attempt to discredit these witnesses has signally failed.

Upon the evidence, then, as detailed, the court can, as it is conceived, entertain no doubt that the material averments of the specifications are fully established. Let us pass, then, to a consideration of the *ANIMUS* with which the offences charged were committed—a subject which I take to be of the utmost importance, not only as determining the measure of the criminality of the accused, but as a guide to the court in estimating the proper punishment to be imposed in case his guilt be found.

The accused, it will be remembered, while admitting that he gave these men money, claims that he did so with the most *innocent intentions*; and that there *are* circumstances under which such relief may be accorded with less criminality than under others may, perhaps, be admitted.

I will preface, indeed, a review of the evidence by stating two propositions which I conceive to present, as fairly as can properly be claimed on the part of the defence, the question of the amount of criminality involved in a case of relief afforded to paroled prisoners.

I. That one who, in relieving or harboring a paroled prisoner of the rebel army, acts merely from an impulse (however misdirected) of charity—as, for instance, where the soldier is a near relation, or former friend, or a mere suppliant in actual distress, though the act would be at law a clear violation of the 56th article, it would be one which a military court would probably view with a considerable degree of indulgence.

II. That, on the other hand, where the party affords the relief to the paroled rebel soldier, not as one supposed to have a claim upon his friendship or humanity, but purely *as a public enemy*, and affords it not from a personal interest in the individual, but as a mark of sympathy in the traitorous cause which he represents, and by way of encouraging him in his hostility and his treason, then another and far graver crime is committed, and one which a military court will visit with a stern punishment.

The briefest reference to the testimony will leave no doubt in which of these two categories is to be classed the act of the accused.

1. The first circumstance which strikes us on entering upon the evidence of the *animus* is the fact that the rebel soldiers, Chapman and Read, were not relatives, friends, or even acquaintances of the accused, but utter strangers to him: and, moreover, that they were not supplicants for charity, but that, having been authorized to proceed to a particular house in the neighborhood, there to remain and await orders, they preferred, for their own convenience merely, to stop at a nearer point. One of them appears to have informed the accused, in the course of the conversation, that they had only confederate funds in their possession, but this was not until after the offer was made to give them money. Nothing that could be construed into an application for charity is shown to have proceeded from either of them. Moreover, that they cannot be regarded as men in destitution and unprovided for is evident from the fact that they were at the time, as the accused well knew, in the custody of a United States officer, whose business it was to furnish them with subsistence, who had already supplied one with clothing, and had, on this very evening, made provision for their lodging.

2. In this connexion we are arrested by the fact of the purely *voluntary* character of the relief. It was a gratuitous tender of assistance, followed by a gift of a sufficient sum for present purposes, accompanied (as is testified by Sergeant Stewart) with an assurance that, *if more should be needed, more would be supplied*. This eagerness and alacrity on the part of the accused is a most significant circumstance. It was, indeed, so marked as to call forth astonishment from these very men, as appears from the comments of Chapman on the next

morning, when the accused made his appearance at Leonardtown, the witness saying, in his honest simplicity, to his companion, "*I wonder what he gave us that money for?*"

3. The next feature to be observed in the testimony is the persistent manner in which the accused asserted to these rebel soldiers that they had a right to go where they pleased, although again and again informed by the latter that they had no such right, and were even then in Maryland in violation of law. We have here the *singular spectacle* of these two ignorant rebels, one of whom could neither read nor write, instructing in the law of the land a man of education and a legislator, while *he*, consulting only his prejudices, affirms that they are wrong, and, when apparently convinced that they spoke with authority, betakes himself to vulgar abuse of General Grant, whom he pronounces a "*damned rascal*" in not giving rebels permission to pass at will through the loyal States.

4. We next come to a circumstance indicating most emphatically that the accused, in relieving and harboring these men, designed to encourage them as *enemies*, and this is his endeavor to discourage them from taking the oath of allegiance. Finding that they are eager to take the oath, he becomes zealous in dissuading them. He emphatically assures them that they cannot be *compelled* to take it, advises and urges them *not* to take it, and holds up to them the example of parties in that neighborhood connected with the rebel army, one of them an officer, who he "*will let high*" will *not* take it. But he finds them still firm.

A singular position, indeed, for a member of the United States Congress! Here are two unfortunates who have lost home, country, means of subsistence, even their soldiers' pay, by the overthrow of the insurrection. They have no hope for the future except in returning to their allegiance to the United States. They appreciate their condition—appreciate the pitiable failure of the rebellion, and the woful delusion under which they were induced to enter its service. They are sincerely and honestly desirous to begin anew their lives, and purge away their dishonor by availing themselves of the beneficent amnesty extended to their class by the President.

And how are they received by this "*citizen of Maryland and of the United States!*" Are they welcomed back to the same citizenship? Is every facility afforded them for testifying their fealty? Does the accused evince, here, that "*charity*" and "*humanity*" which he claims actuated him solely in his dealings with these men? On the contrary, he coldly, cheerlessly, meets them with words of discouragement and disdain.

5. But he does not stop at this. Not content with dissuading these wretched lads from returning to their allegiance, he incites them to remain in the rebel army, and, as soon as exchanged, to "*go back and fight*" against the federal government—that government of which *he*, meanwhile, is to remain an officer, and under whose protection *he* is to live in prosperity and peace! Is this "*charity!*" Is it not rather cruelty to these men, this sending them back to endure the horrors of war in an utterly worthless cause? Is it not, indeed, an expression of the intensest sympathy with the public enemy, and of bitterest opposition to the government in its efforts to suppress, forever, the rebellion?

6. We come next to other pointed expressions of the same character. The accused avows to these men that he "*was and always has been* in favor of the south," and that its cause is "*just*." What have we here but the most determined, most ardent hostility to the government, and support of the rebel cause? Untaught by the astounding progress of recent events, the accused here asserts, still unrelentingly, his sympathy with that infamous conspiracy in whose subjection this country for four long years has been expending its millions of treasure and its best life's-blood.

7. But this was not enough. When one of these soldiers expresses his wish that the chief of the so-called government of the rebels were lying dead by the side of our lamented President, the accused hastens to assure him that he maligns and quite misapprehends the character of Davis. And what words has he, indeed, for this prime instigator of the rebellion: this tyrant, who, to gratify his traitorous ambition, first deludes his subjects, then delivers them over to suffering, exhaustion and death: this grand inquisitor, who, with fiendish and execrable cruelties, has tortured out the lives of thousands of our heroes: this fugitive felon upon whose head a price has been set as an accomplice in the atrocious crime of assassination? What words has the accused for this most hateful character of modern times, whom his very people are said now to curse and condemn? Only that he is a "*GOOD MAN, A GREAT MAN, A GENTLEMAN!*" I leave it to the court to determine what *animus* is evinced here.

8. But *even this* was not enough. When the rebel soldier, Read, declares his personal interest in the apprehension of the assassin Booth, the only comment which the accused has to offer upon this crowning crime of the rebellion is this: that IT WAS "*NO USE TO KILL THE PRESIDENT NOW; THAT IT WAS TOO LATE!*"

But a few days had then elapsed since the murder of the chief of the nation. His sacred remains were at that moment passing through the land in solemn funeral to their final resting place; an entire people were his mourners. But to this great public grief the accused is a stranger. He has, indeed, a regret, but a regret only that this atrocious crime was not compassed long before, when the "*cause*" so near to his heart would thereby have been strengthened and promoted. Of the heartless and malignant spirit which speaks here words cannot be found to express a due abhorrence. When it is remembered that these detestable words, and all that other detestable language of the accused, were enunciated, not in the day

of the enemy's triumph, but at the very collapse and final disappearance of the rebellion, it becomes, indeed, difficult to account for their utterance except upon the theory of some strange derangement or aberration of mind.

9. In this connexion the court will naturally recur to the expressions of the accused, as recited by Sergeant Stewart, and to the bitterness and intensity with which they were uttered. These expressions of political sentiment, having no immediate reference to the gravamen of the charge, were not designed to be brought out on the part of the government. Their introduction in evidence was resisted by me, and they were evolved only in answer to the interrogatories of the accused which he persisted in putting to the witness. It is enough to say of them that, while they express the utmost contempt and defiance of the national government, and the most determined opposition to it, because of its efforts to suppress the rebellion, they abound also in that old, vulgar abuse of the party of the Union, now so rarely heard, except, perhaps, in the fifth congressional district of Maryland and a few congenial localities, and which would not be noticed but for the fact that it ordinarily accompanies *overt acts of hostility*.

I have thus briefly reviewed the testimony which indicates by what *animus* the acts of the accused were characterized. If the testimony offered upon the part of the government is credited—and it is submitted that it is substantially unimpeached—but one opinion can, it is claimed, be formed by the court upon the criminality or the gravity of the offences. That he is judged in the light of this opinion the accused can have no cause to complain. The views which have been here expressed in regard to his language and sentiments *are the same which must be entertained by every patriotic citizen, and are those also which are entertained by every worthy officer of the army*. It would, in truth, be the duty of an officer who found himself not approving such views to forthwith *resign his commission*, conscious that if he did not do so he would be violating his oath of office, and would deserve a *summary dismissal*; and it may, indeed, be observed that *it is this very inbred and instinctive hatred of treason, and this nice appreciation of the criminality of all sympathy with the public enemy in time of war, which renders a court of military officers the most fitting tribunal for the determination of a case involving the patriotism and loyalty of the accused*.

Upon the general question of the amenability to punishment of the accused for his acts, I have but one more observation to offer—that these acts, however criminal in an ordinary citizen, assume a far deeper shade of guilt when the public position of the party is considered.

A member of the thirty-eighth Congress, the member elect of the thirty-ninth Congress, not only his relations to the inhabitants of his district whose chosen representative he was, but his relations to the government of which he formed a part, eminently required from him that he should sedulously comport himself as a loyal citizen, and as a supporter of that government in its struggle for life with rebels in arms. Moreover, he had already once subscribed the solemn oath of office required to be taken and subscribed by every person elected or appointed to any office of honor or profit under the government, and which has been taken by every member of this court. In that oath he had declared as follows: “I do swear that, to the best of my knowledge and ability, I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter: so help me God!” The statute which prescribes this form provides also that “whoever shall falsely take the said oath shall be guilty of *perjury*, and, on conviction, in addition to the penalties now prescribed for that offence, shall be deprived of his office, and rendered incapable forever after of holding any office or place under the United States.”

It is under such peculiarly solemn sanctions and obligations as these, in addition to those which ordinarily attach to the position of a member of the United States Congress as a representative man, that the accused first entered upon the office which he still holds. Is he not then, as such officer, if the theory of the case presented by the government be adopted, guilty of a far graver crime in relieving, harboring, encouraging the public enemy, and in inciting him to continue in war and rebellion, than if he were a private citizen, grave enough as his crime would be even then?

**GENTLEMEN OF THE COURT:** In concluding this argument I have but to add that I have endeavored herein, even at the risk of being tedious, to cover all the important points of this important case; which, in most respects, is one of entirely new impression. As the functions of the judge advocate end with the delivery of his reply to the address of the accused, his duties, while the court is cleared to deliberate upon its finding, being little more than ministerial, I will close by finally submitting, for your determination, whether the striking facts disclosed by the testimony do not fully justify the government in the arrest, arraignment, and trial, as a criminal, of the accused, Benjamin G. Harris.

W. W. WINTHROP, Major and J. A.,  
Judge Advocate General Court-Martial.

## EXHIBIT A.

*Mr. President and gentlemen of the court-martial:*

The undersigned respectfully states to the court-martial here that he has been advised by counsel, since the commencement of this trial, and since he plead to the charges and specifications, that he ought to have made a formal exception to the jurisdiction of this tribunal to take cognizance of the charge made against him, and which he has been required to answer here. And he respectfully further suggests, that whilst he could hardly hope, by any views he might be able to present in support of this exception, to induce this honorable court to sustain the same in the teeth of the various decisions in support of the jurisdiction of similar tribunals in like cases, (and to which decisions, in the absence of some authoritative judicial exposition of the law, this tribunal would naturally accord the highest and indeed controlling respect,) yet he is advised that the suggestion of want of jurisdiction, made at any time, in any manner, however informal, for all ulterior purposes, be equally available as if the same had been made by formal plea or in some other apt mode.

The undersigned, therefore, respectfully asks the benefit of the exception, which he desires to be made parcel of the record, taken by him to the jurisdiction of this tribunal.

The undersigned respectfully further states that he has been advised, and he respectfully suggests, that the two specifications to the charge against him do not, nor does either of them, show an offence embraced within either clause of the 56th article of war. No such facts are alleged as would or could, if proved, amount to such offence, or any such offence, as is made punishable by or under said article; and he hopes that he may have the benefit of all exceptions to said specifications, as if he had, in fact, demurred to the same and to each of them respectively.

The undersigned does not ask permission at this stage of the trial to be heard in support of these exceptions, but respectfully asks that this paper may be received and be made a part of the proceedings in the cause, to avail hereafter in such manner, and to such extent, as justice and right may require.

BENJAMIN G. HARRIS.

## EXHIBIT B.

[Special Orders No. 72.—Extract.]

HEADQUARTERS ARMIES OF THE UNITED STATES,  
*In the Field, April 10, 1865.*

I. All officers and men of the confederate service, paroled at Appomattox Court House, Virginia, who, to reach their homes, are compelled to pass through the lines of the Union armies, will be allowed to do so, and to pass free on all government transports and military railroads.

By command of Lieutenant General Grant:

E. S. PARKER  
*Lieutenant Colonel and A. A. A. G.*

Official:

GEORGE K. LEET, *A. A. G.*

## EXHIBIT C.

[By telegraph.]

HEADQUARTERS ARMIES OF THE UNITED STATES,  
*Washington, April 18, 1865—11 p. m.*

Paroled prisoners belonging to North Carolina, South Carolina, Georgia, Florida, Alabama, and in fact all the southern States, must get to their homes through the country. Those at Fort Monroe must be turned back.

Orders were given that their paroles should be a pass to go through our lines where it was necessary to get to their homes, but we did not undertake to pay their passage, nor to permit them to travel a roundabout way through the loyal States for their convenience. All issues of forage and subsistence to them must also be discontinued.

U. S. GRANT, *Lieutenant General.*

Major General ORD, *Richmond, Va.*

HEADQUARTERS ARMIES OF THE UNITED STATES.

Official copy:

GEORGE K. LEET, *A. A. G.*

## EXHIBIT D.

[By telegraph.]

HEADQUARTERS ARMIES OF THE UNITED STATES,  
*Washington, D. C., April 19, 1865—5.30 p. m.*

Your despatch received. We cannot undertake to bear all the hardships brought on individuals by their treason and rebellion. It was no part of the agreement that we should furnish homes, subsistence, or transportation to Lee's army. After the surrender, I ordered that the paroles of men should be a pass to go through our lines to reach their homes, and that, when transported on roads or vessels run by government, fare should not be collected. I did not, by any means, intend that this should be an excuse for all who chose to come within our lines and stay there a public charge, or that men going to North Carolina or Georgia should be furnished a pleasant passage through the north and coastwise to their homes. Those living beyond our lines, or in the seceded States, before they can come north must qualify themselves as citizens, by claiming and conforming to the President's amnesty proclamation. General Halleck will start to Richmond to-morrow, and he will take up and settle the present difficulties.

U. S. GRANT, Lieutenant General.

Major General ORD, *Richmond, Va.*

HEADQUARTERS ARMIES OF THE UNITED STATES.

Official copy:

GEORGE K. LEET, A. A. G.

## EXHIBIT E.

[By telegraph, in cipher form.]

WAR DEPARTMENT, *Washington, April 20, 1865—2.55 p. m.*

The three thousand prisoners at Fort Monroe, bound for New Orleans, Mobile, &c., cannot be furnished transportation by government. It was no part of the arrangement that they should receive transportation, or be allowed to pass through our lines, except where to reach their homes it was necessary to do so. The men living south of Richmond must get home through the country; and if they come within our lines, must do so either as prisoners of war who surrender their parole, or as persons desirous of quitting the rebel cause and taking advantage of the President's amnesty.

U. S. GRANT, Lieutenant General.

Major General ORD, *Richmond, Va.*

HEADQUARTERS ARMIES UNITED STATES.

Official copy:

GEO. K. LEET, Assistant Adjutant General.

## EXHIBIT F.

UNITED STATES      }  
 vs.                  } Before the military court-martial.  
 BENJAMIN G. HARRIS. }

In this case the accused respectfully asks of this honorable court permission to introduce additional evidence in his defense, and of the existence of which he was not aware when he closed the case on his part, on the 9th instant. He asks the court permission to introduce the rolls of the 32d rebel Virginia infantry regiment, to show that said rolls do not contain the name of Sergeant Richard Chapman or the name of Private William Read as paroled soldiers of Lee's army; and to enable him to introduce said evidence, he prays for a summons to Brevet Brigadier General G. H. Sharpe, late assistant provost marshal general of the armies operating against Richmond, and to bring with him the rolls of the 32d rebel Virginia infantry regiment containing the names of the soldiers of Lee's army paroled in said regiment.

PETER W. CRANE,  
*Counsel for B. G. Harris.*

## EXHIBIT G.

*Thirty-second Virginia regiment.*—John Lattimer, hospital steward, private property; S. J. Barlow, quartermaster's sergeant; W. W. Cary, commissary sergeant; S. P. Slater, ordnance sergeant; K. A. Slater, sergeant, company A; K. S. West, corporal, company A; J. M. King, private, company A; George Latimer, private, company A; W. C. Massenburg, private, company A; S. R. Selater, private, company A; H. B. Woodend, private, company A; S. S. Maupin, corporal, company C; W. L. Jones, corporal, company C; Leonard Martin, private, company C; H. A. Morris, private, company C; Lewis Piggott, private, company C; J. D. Richardson, private, company C; J. F. Hawkins, sergeant, company E; J. H. Kutchins, corporal, company E; W. J. Perkins, private, company E; A. J. Semple, private, company E; J. E. Webb, private, company E; J. B. Nottingham, sergeant, company F; D. F. Rainey, private, company F; R. S. Tudor, private, company F; L. M. Williams, private, company F; John McGregor, private, company F; T. M. Harwood, sergeant, company II; R. S. Mallicote, private, company II; E. K. Peck, sergeant, company I; T. J. Herbert, corporal, company I; F. H. Dunn, private, company I; Lewis Howard, private, company I; W. F. Hopkins, private, company I; C. B. Dunn, private, company I; R. C. Patrick, private, company I; W. D. Thynham, private, company I; H. H. Wormam, private, company I; J. E. Hopkins, private, company I; S. R. Johnson, corporal, company K; W. H. Bailey, private, company K; Robert Southward, private, company K.

I certify that this is a correct list of the men present on the 9th April, 1865.

G. E. PICKETT,  
*Major General Commanding.*

WASHINGTON, D. C., May 11, 1865.

I certify that the foregoing is a correct copy of the duplicate roll of the 32d Virginia regiment of infantry received by me at Appomattox Court House, Va., and of the whole thereof.

GEORGE H. SHARPE,  
*Brevet Brigadier General, &c.*

OFFICIAL REVIEW BY THE JUDGE ADVOCATE GENERAL OF THE CASE OF  
B. G. HARRIS.

WAR DEPARTMENT, BUREAU OF MILITARY JUSTICE,  
*Washington, D. C., May 13, 1865.*

To the SECRETARY OF WAR:

Before a general court-martial, convened by Special Order No. 196, War Department, dated May 1, 1865, Benjamin G. Harris, a citizen, was tried on the following charge, to wit: "*Violation of the 56th article of war.*"

Under this charge were two specifications which set out the particular state of facts alleged to constitute the offence, in the following words:

"*Specification 1.* In this: That Benjamin G. Harris, a citizen of Maryland and a member of the Congress of the United States, did relieve with money, to wit, the sum of two dollars, the public enemy, to wit, Sergeant Richard Chapman and Private William Read, of company K, 32d regiment Virginia infantry, soldiers of the army of the so-called Confederate States of America, then in rebellion against and at war with the United States; he, the said Harris, then and there well knowing said Chapman and Read to be soldiers of said army, and treating and offering to relieve them as such, and at the same time advising and inciting them to continue in said army and to make war against the United States, and emphatically declaring his sympathy with the enemy, and his opposition to the government of the United States in its efforts to suppress the rebellion. This at or near Leonardtown, St. Mary's county, Maryland, on or about April 26, 1865.

"*Specification 2.* In this: That Benjamin G. Harris, a citizen of Maryland and a member of the Congress of the United States, did knowingly harbor and protect the public enemy, to wit, Sergeant Richard Chapman and Private William Read, of company K, 32d regiment Virginia infantry, soldiers of the army of the so-called Confederate States of America, then in rebellion against and at war with the United States, by procuring them to be lodged and fed in a private house, and furnishing them with money therefor; he, the said Harris, then and there well knowing said Chapman and Read to be soldiers of said army, and giving them money as such, and at the same time advising and inciting them to continue in said army and to make war against the United States, and emphatically declaring his sympathy with the enemy and his opposition to the government of the United States in its efforts to suppress the enemy.

the rebellion. This at or near Leonardtown, St. Mary's county, Maryland, on or about April 26, 1865."

The accused pleaded not guilty to the charge and both specifications. The court found him as follows: Of the first specification, guilty; of the second specification, guilty, except as to the words "and fed in a private house;" of the charge, guilty.

The sentence pronounced was as follows: "To be forever disqualified from holding any office or place of honor, trust or profit under the United States, and to be imprisoned for three years in the penitentiary at Albany, New York, or at such other penitentiary as the Secretary of War may designate."

The proceedings were conducted in accordance with the established regulations governing courts-martial, and are in all respects correct in form.

The testimony of the two soldiers named in the pleadings, which is concurrent as to the material allegations embraced in the findings on the specifications, and corroborated in the most material particulars by the evidence of a sergeant of the United States army and of a citizen of Maryland, appears to fully sustain the decision of the court thereon.

The averments in regard to the *animus* of the prisoner in relieving and harboring the rebel soldiers are clearly established by the proof of the language used and advice given by him at his interview with those men—language and advice of the most disloyal and treasonable character, and which, while fully evincing his zealous interest in the "cause" of the rebels and his hostility to the government, further show that in aiding those soldiers he was treating with and encouraging them as enemies of the United States. In illustration it is sufficient to call attention to the proof that while urging these men not to take the oath of allegiance, but to return to the enemy's ranks and "fight again" against the federal government, and at the same time expressing an ardent personal sympathy with the rebellion, he took occasion to pronounce the felon and traitor Davis "a good man, a great man, and a gentleman," and to declare of the assassination of President Lincoln that "it was no use to kill him now—it was too late;" thus clearly sanctioning the assassination, but simply deplored its postponement.

The prisoner was assisted by four able counsel.

The points raised by the defence—that the court was without jurisdiction; that the fact that the parties relieved and harbored were paroled prisoners of the army of the rebel Lee modified their status as enemies; that the testimony of the prosecuting witnesses was not entitled to credit inasmuch as they were soldiers of the rebel army; as well as the other less important questions advanced—are fully set forth and discussed in the argument of the judge advocate of the court. It is deemed unnecessary in this report to enter into any elaborate presentation of them. It is sufficient to observe that so many determinations have heretofore been made in favor of the jurisdiction of a court-martial in cases of this class that the question is no longer considered open.

The recently published opinion of Attorney General Speed upon the status of paroled prisoners is regarded as practically settling the question that the rebel soldiers relieved by the accused were enemies, and, moreover, that they had actually violated their parole at the time of their interview with him.

In regard to the credibility of the witnesses for the prosecution it is to be remarked that, though soldiers of the rebel army, their deportment and language at the time of their meeting with the prisoner were not unseemly nor offensive, while his were marked by an intense disloyalty and sympathy with the rebellion; and, as before stated, their testimony was corroborated by other witnesses whose credibility was not sought to be impeached by the defence.

The trial appears to have been a patient, thorough investigation, and the prisoner was granted unusual indulgence, testimony being admitted in his behalf, against the objection of the judge advocate, which was clearly incompetent, and after he had closed his case and an adjournment to give time for him to prepare his written argument had transpired—the case being reopened for him to introduce new evidence.

The decision upon the second specification also seems to show that the court was animated with extreme caution to avoid every approach to injustice, the proof being, it is considered, plain that the prisoner furnished money to procure the rebel soldiers to be fed as well as lodged; and yet the allegation that he procured them to be fed was excepted in the findings.

The penalty adjudged by the court is deemed to be fully warranted, and all the circumstances of the case, especially the fact that the prisoner at the time of committing the crime held the high position of member of Congress, bound by special oath to fealty to the government against which his treason was directed, are conceived to demand the rigid enforcement of the sentence.

J. HOLT,  
*Judge Advocate General.*

INDORSEMENTS ON OFFICIAL REPORT OF JUDGE ADVOCATE GENERAL,  
BEING THE FINAL ACTION AND ORDERS OF THE PRESIDENT IN THE  
CASE.

EXECUTIVE OFFICE, May 31, 1865.

In the within case of Benjamin G. Harris the findings and sentence of the court are hereby approved and confirmed. Additional evidence and affidavits, however, bearing upon this case and favorable to the accused, having been presented to and considered by me since the sentence aforesaid, I deem it proper to direct that the sentence in the case of said Harris be remitted and that he be released from imprisonment.

ANDREW JOHNSON, President U. S.

Respectfully referred to the Adjutant General to execute the directions of the President.

By order of the President:

JAS. A. HARDIE,

*Brevet Brig. Gen'l, &c.*

WAR DEPARTMENT, May 31, 1865.

ADDITIONAL EVIDENCE AND AFFIDAVITS, PRESENTED TO THE PRESIDENT AFTER THE TRIAL, AND REFERRED TO IN HIS FINAL ORDERS OF MAY 31, 1865.

STATE OF MARYLAND, Saint Mary's County, *sct:*

On this 18th day of May, 1865, personally appears before me, the subscriber, a justice of the peace of the State of Maryland in and for Saint Mary's county, J. T. Wilhelm, formerly of the confederate States army, who was regularly paroled and has taken the amnesty oath, and made oath on the Holy Evangel of Almighty God, that he with several others crossed the Potomac river on the 23d ultimo, to Saint Mary's county, in company with the two men, Chapman and Read, whom he previously met in Virginia, and where he saw the said Chapman forge the parole which he had in his possession and which he exhibited here in Saint Mary's county as genuine, and also the said Chapman stated to him the forgery; and the said Read told him at the same time that he had no parole; and further, that he (Wilhelm) heard nothing of his (Read's) losing his parole crossing the river or after the said Read's arrival in Maryland, previous to his reporting at Leonardtown; that upon the arrival of said deponent at Leonardtown, a few days after, he learned of the arrest of the honorable B. G. Harris and that the said Chapman and Read were the witnesses against him; and upon conversing with them upon the subject of the arrest the said Chapman and Read both told him that Mr. Harris said nothing to them in any manner disloyal, and the whole amount of the said Harris's conversation with them was to the effect that after giving them a dollar apiece, he told them that they had better go to the hotel at Leonardtown and get their lodging—that he could not take them into his house; and that they had heard Mr. Harris say nothing out of the way, and they did not intend to testify against him in Washington; but that *for giving testimony against Mr. Harris the United States authorities would let them go clear* by taking the oath of allegiance, and if they were allowed to take the oath, and were released *before the trial*, they would give them some trouble to find them, for *they knew nothing against him to tell*; that the officer who had the prisoners in charge for their conveyance to Washington had in his possession a paper signed by Major Waite, upon which was stated that Chapman and Read were paroled prisoners of the army of northern Virginia, and were important witnesses against Mr. Harris, and hoped they would be allowed to take the oath of allegiance; that he, the said Wilhelm, after his arrival in Washington, was separated from the said Chapman and Read and others, and carried to Alexandria and locked up in company with some other prisoners; that he, as also the others who were thus confined, had their paroles under the capitulation of General Lee, and showed them to Major Waite in Leonardtown, where they *voluntarily* reported after coming into Maryland. The said Wilhelm was a private in company C. 5th Virginia, Colonel R. B. Boston, Payne's brigade, Fitz Lee's division. That he was not discharged from the prison at Alexandria until after the close of the trial of said honorable B. G. Harris; that during his confinement he saw from the newspapers that Mr. Harris's trial was going on, and wrote to him during the time two letters, which he was informed were delivered to the superintendent of Carroll prison, and from which communications he heard nothing from Mr. Harris.

JAS. T. WILHELM.

Sworn to and subscribed before me, by the said J. T. Wilhelm, to me well known, on the day and year above stated.

R. H. WATHEN, J. P.

STATE OF MARYLAND, Saint Mary's County, *to wit:*

I, John A. Camalier, clerk of the circuit court for Saint Mary's county, do hereby certify that R. H. Wathen, esq., before whom the foregoing affidavit was made, was, at the time

of signing the same, a justice of the peace of said State, in and for Saint Mary's county, duly commissioned and sworn.

In testimony whereof, I hereto subscribe my name and affix the seal of the circuit court for Saint Mary's county, this 20th day of May, A. D. 1865.

JOHN A. CAMALIER, Clerk.

STATE OF MARYLAND, *Baltimore City, set:*

On this 24th day of May, 1865, personally appeared before me, the subscriber, a justice of the peace of the State of Maryland, in and for the city of Baltimore, Joshua Passano, a regularly paroled prisoner of the Confederate States army, who has taken the amnesty oath, and made oath on the Holy Evangely of Almighty God, that on or about the 20th day of April, ultimo, while on the Virginia border of the Potomac river, making preparations to cross the river into the State of Maryland, he met the two men, Chapman and Read, witnesses for the prosecution in the case of the United States *vs.* Hon. B. G. Harris; that said Chapman being informed that deponent was a paroled prisoner of war, did exhibit to deponent what purported to be his (Chapman's) parole, and did request deponent to compare the two paroles, and to rectify whatever error or discrepancy might appear in his the said Chapman's parole; that the said Chapman did then confess to deponent that he, himself, had written his own parole, and feared that the forgery would be detected by the United States authorities; that, after crossing the river, deponent again met the men, Chapman and Read, in Leonardtown, Saint Mary's county, Md., and was sent under guard in company with them and others to the provost marshal at Washington; that, while there awaiting trial, the said Chapman remarked to deponent that "Mr. Harris had done nothing, and that he (Chapman) had nothing against him, but that he (Chapman) was in a bad serape, and was bound to get out of it by some means;" that the said Chapman further remarked, that "as soon as he was permitted to take the oath of allegiance he intended to abscond, and that he would then defy the United States authorities to use him as a witness against Mr. Harris or any one else."

J. PASSANO.

Sworn and subscribed to the day and year aforesaid.

C. H. DRYDEN, J. P.

STATE OF MARYLAND, *Baltimore City, set:*

I hereby certify that Charles H. Dryden, esq., before whom the annexed affidavit was made, and who has hereto subscribed his name, was, at the time of so doing, a justice of the peace of the State of Maryland, in and for the city of Baltimore, duly commissioned and sworn.

In testimony whereof, I hereto set my hand and affix the seal of the superior court of Baltimore city, this 24th day of May, A. D. 1865.

ALFRED MACE,  
*Clerk of the Superior Court of Baltimore City.*

STATE OF MARYLAND, *Baltimore City, set:*

On this 25th day of May, 1865, before me, the subscriber, a justice of the peace of said State, in and for said city, [came] Corporal Jno. B. Storse, of company C, 20th regiment V. R. C., who, being sworn on the Holy Evangely of Almighty God, says, that while stationed at Leonardtown, Saint Mary's county, Md., on Wednesday, 26th day of April last, being near Major Waite's headquarters, at Fenwick's hotel, two men came in and stated they were paroled prisoners from the army of General Lee, and they went on to speak of the battles they had been in—naming Gettysburg, &c.; and I asked him (Chapman) if he was an officer, having on an officer's coat. He said he was a sergeant now, but had this coat when he was a captain. I asked him how he got from captain to sergeant, and he said he was in Richmond, and a whore insulted him and he knocked her down, and was placed under arrest and kept four to six months, and finally lost his commission—the regiments being consolidated, &c. He then handed me his parole, which I examined, and noticed it was badly written, and so said to him. Read said he lost his parole while on the boat crossing the river, by taking his coat off; and Chapman confirmed his statement, saying Read belonged to the same company; and when I told Read he would have to take the oath to get clear, he said he was willing; and Chapman and him (Read) both remarked several times, that whatever one done they both would do; said they were from Baltimore, and was there during the riots on the 19th of April, and left soon after, and were at the first battle of Bull Run. Seeing some figures on his arm, I asked Read if he was in the navy: he said no—that he followed oystering before joining the army. Chapman had previously spoken of commanding a battery at Petersburg, and said "he had a man under him who had a short time before deserted from our (the United States) army, and joined his company, that undertook to skulk when the battle began, when he held his sword in one hand and revolver in the other, and told he must not leave or I would kill him." I then remarked that a deserter ought to be shot any way, as they were no use to any army, &c. He also said it rained bullets by the bushel at Rice's Station, &c. The next day he had another coat, which

he said the major gave him. He also said he was under arms, having a pistol buckled on. I asked him how he came by it, and he said the major furnished him with it to protect himself with. They were sent on the boat to Washington on Friday afternoon, the 28th of April, in company with Hon. B. G. Harris, who was under arrest, and several other prisoners.

JOHN B. STORSE.

The aforesaid was subscribed and sworn to before me on the day and year above written.

J. H. WHITELY, J. P.

STATE OF MARYLAND, *Baltimore City, set:*

I hereby certify that James H. Whately, esq., before whom the annexed affidavit was made, and who has hereto subscribed his name, was, at the time of so doing, a justice of the peace of the State of Maryland, in and for the city of Baltimore, duly commissioned and sworn.

In testimony whereof, I hereto set my hand and affix the seal of the superior court of Baltimore city, this 25th day of May, A. D. 1865.

ALFRED MACE,  
*Clerk of the Superior Court of Baltimore City.*

STATE OF MARYLAND, *St. Mary's County, to wit:*

On this 19th day of May, 1865, before me, the subscriber, a justice of the peace of said State, in and for St. Mary's county, personally appeared Andrew J. Scott, to me well known as superintendent of the Union hotel in Leonardtown, Maryland, and who, being sworn on the Holy Evangel of Almighty God, says that on Wednesday, the 26th day of April last, two men came to said hotel, (where Major Waite had his headquarters,) and, the major being absent at the time, entered into conversation with several soldiers and citizens who were present under the porch. They stated that they were formerly from Baltimore, and wished to return there; that they were paroled prisoners from General Lee's army; and Chapman stated that he commanded a battery in the late battles near Petersburg, and told of a difficulty he had to keep one of his men from running and skulking, and said the fellow deserted a short time before from the United States army and joined his company. He also spoke of being in the fight at Rice Station, and spoke of many battles he had been in. Corporal Stone and others were present and heard the conversation. Read stated that he had had a parole, but lost it, which Chapman said he knew to be so. This was previous to their reporting to Major Waite, who came in town about an hour or two after, when they were reported to him at his office: and during the afternoon they left the hotel, and he did not see them until the next day. The next day, Thursday, the 27th, they came into the bar-room, (which is opposite the room then occupied by the major as his headquarters or office, the doors being usually open between,) and then told me that the major had instructed them to stay at the hotel, and that he would pay their board: wherenon they were furnished with meals and lodging until the following day, which was Friday, the 28th, when they left for Washington on the steamer which conveyed the Hon. B. G. Harris and some other prisoners.

The next day, Saturday, the 29th, when Major Waite called to settle the bill for his own board, &c., I called his attention to the bill of these two men, Chapman and Read, and told him what they stated he had told them, when he stated *he did not tell them he would settle their bill*, and refused to do so.

When they first came, on Wednesday, Chapman had on an old uniform coat, such as was worn by rebel officers, but after reporting to the major I saw him with a better coat on, and he told me Major Waite had given it to him.

They both talked to me about Baltimore, and Read said he lived on West Pratt street when he left to join the southern army, and that *he drove a hack* as his business there, which Chapman said was true. I then asked Read about some noted localities in the city, I having formerly lived there, and he seemed to be ignorant of them, which somewhat surprised me, as I thought a hack-driver would certainly have been acquainted with them.

A. J. SCOTT.

Sworn to and subscribed before me on the day and year above written.

ZACHEUS TIPPETT, J. P.

STATE OF MARYLAND, *St. Mary's County, to wit:*

I, Jno. A. Camalier, clerk of the circuit court for St. Mary's county, do hereby certify that Zacheus Tippett, esquire, before whom the aforesaid affidavit was made, was, at the time of signing the same, a justice of the peace of said State in and for St. Mary's county, duly commissioned and sworn.

In testimony whereof, I hereto subscribe my name and affix the seal of the circuit court for St. Mary's county this 20th day of May, A. D. 1865.

JNO. A. CAMALIER, *Clerk.*

STATE OF MARYLAND, *St. Mary's County, to wit:*

On this 19th day of May, 1865, before me, the subscriber, a justice of the peace of said State in and for St. Mary's county, personally appeared William McIlvain, who is well known to me, and made oath on the Holy Evangel of Almighty God that he met with two men on the porch at the Union hotel, in Leonardtown, on Wednesday, the 26th ultimo, one of whom called himself Chapman, and the other Read: and said Chapman had a paper which he said he had received as his parole upon the surrender of General Lee, at Appomattox Court House, in Virginia, and that said Read stated that he had a parole also, but lost it in crossing the Potomac river; and further heard Chapman say that his friend Read had his parole and lost it, as Read stated. He, said William McIlvain, was present at the door leading to Major Waite's office when they first approached the major, and Chapman handed him the said parole, and indorsed the statement that Reed *had lost his*. Major Waite then told them to come in, which they did, and he heard no more of the conversation. Lieutenant Jones, of company C, United States Veteran Reserve Corps, was under the porch about the time they came to the door, and asked Chapman where he got that officer's coat from. (It was such as was worn by rebel captains, but looked very old and filthy.) Some time after they had reported, Chapman and Read came across the street to my tailor shop, when Chapman had on another coat, which he told me was given to him by Major Waite, but he did not like the buttons on it, and asked me if I could cover them with something dark for him. Read asked me to give him some list to make him a pair of suspenders, which I did. They told me they went from Baltimore just after the 19th of April riots and joined the southern army, and told me what part of the city they lived at that time; and I told them I lived in Baltimore at that time, and had owned some property in the same neighborhood, and asked them several questions about well-known places in that section, which they seemed to have forgotten, or did not know. Read said he had been engaged in oystering before he left Baltimore for the south, and showed me some figures on his arm, picked with India ink, of different colors, which he said he had done while on an oyster vessel. Read also came over to my piazza the next day, and I again entered into conversation with him, when he told me he was living on the best at the hotel now, and it cost him nothing, as Major Waite was to pay his expenses there. He also showed me a revolver he had on at the time, and I looked at it and found it was a United States pistol, and told him so, when he said yes, he had captured it some time before in battle from a Yankee he had taken prisoner, &c. I met both Chapman and Read at the table at the Union hotel that evening, and saw them on their way to their room that night with a light. I saw them again on Friday at the hotel, before they left in the boat for Washington, but had no further conversation with them. It was stated here that they were to give testimony against honorable B. G. Harris, who was taken away at the same time.

WM. MCILVAIN.

Sworn and subscribed to before me on the above date.

ZACHEUS TIPPETT, J. P.

STATE OF MARYLAND, *St. Mary's County, to wit:*

I, Jno. A. Camalier, clerk of the circuit court for St. Mary's county, do hereby certify that Zacheus Tippett, esquire, before whom the foregoing affidavit was made, was, at the time of signing the same, a justice of the peace of said State in and for St. Mary's county, duly commissioned and sworn.

In testimony whereof, I hereto subscribe my name and affix the seal of the circuit court for St. Mary's county this 20th day of May, A. D. 1865.

JNO. A. CAMALIER, Clerk.

STATE OF MARYLAND, *Baltimore City, to wit:*

Be it remembered that on this 25th day of May, 1865, before me, the subscriber, a justice of the peace of said State in and for said county, personally appeared James Northwood, who made oath on the Holy Evangel of Almighty God that he knows the two men Chapman and Read, who were sworn on the trial of Hon. B. G. Harris, of Maryland, before the court-martial, in Washington, about the 6th instant, having become acquainted with them in Northumberland county, in Virginia, on or about the 22d of April last, near the shore of Potomac river, where they told me their names, one as Chapman and the other Read, and were trying to get across the river to go to their homes somewhere in the north. I advised them, as also others who were with them, to go out to the gunboats in the river and give themselves up, when Chapman and Read both objected, saying they did not want to come in contact with any United States authorities for fear they would be roughly handled. Read said he had been a drafted man and put in the United States army, and had staayd only a few days and went over to the southern army, and he had no parole. Chapman, in my presence, fixed up a parole from a blank he had obtained, and said he was afraid to risk it, as it was not done up right; but if they came across him he thought he could fool them through, but he would

not cross in the daytime, but would steal a boat and try and dodge the military all the way through. There were some other persons writing at the same table when Chapman filled up his parole, and which was badly done. He filled it up Sergeant Chapman. Company K was above the line, I recollect, and thirty-second Virginia regiment, Pickett's division, &c. The name at the bottom he thought no one could read, and I recollect its being very badly written all through. It was a printed form, and headed Appomattox Court House, &c. I told him he would run some risk on that, I was sure. They were very badly dressed at the time I saw them on the Virginia shore—one, Chapman, had on an old confederate officer's uniform coat, and seemed to be in very needy circumstances.

JAMES NORTHWOOD.

Sworn to and subscribed before me the day and year above written.

JOS. W. BLAKE, J. P.

LETTER OF JOHN A. CAMALIER TO THE PRESIDENT IN REGARD TO AFFIDAVITS AND PAPERS FILED BY HIM.

LEONARDTOWN, May 31, 1865.

DEAR SIR: Upon my arrival home I find among my papers the letter of Hon. M. Blair, which I presented to your excellency a few days past, and ought to have left it with the papers in Hon. B. G. Harris's case. My confusion consequent upon a first interview with your excellency is my excuse, and I herewith return it to you.

Your excellency's assurance that you would examine the testimony presented by me, and would hear and fairly consider any statement I would make previous to your disposal of the case, prompts me to add a few words in reference to the character of the parties making the affidavits presented for your consideration.

I am well acquainted with the three who testify from St. Mary's county, and know them to be respectable, reliable, and truthful, and I have made particular inquiry as to those whose affidavits are made in Baltimore city, and I have no hesitation in indorsing them to your excellency as in every way reliable in their statements, and I am assured that many gentlemen, if necessary, who would be recognized by your excellency, can be added. Indeed, upon a review of their affidavits, they are found to corroborate the statements of each other so clearly as to leave no doubt whatever of their truthfulness. There are many other gentlemen in this county who met these fellows, Chapman and Read, who were the witnesses before the court-martial, whose testimony would go to show that they did not intend to report to our authorities if they could avoid it, having travelled across our country to the Patuxent river, which they found blockaded, and which alone prevented them from escaping beyond the reach of our military. I am myself fully satisfied, from an intimate knowledge of all the surroundings of this case, that this course was adopted by these fellows, Chapman and Read, for the purpose of evading the just punishment they were entitled to receive if their true history was developed.

I must be excused by your excellency for expressing my regret that the case of Mr. Harris, a citizen representative of the people, could not have been tried by a *civil court*, and that the testimony now presented to your excellency could not have been produced by him upon his trial before the court-martial.

I thank your excellency for your forbearance, and subscribe myself your excellency's obedient servant,

JNO. A. CAMALIER.

His Excellency ANDREW JOHNSON,  
President of the United States.

P. S.—Please excuse me for enclosing our county paper and a slip from a previous issue, showing our status, &c.

With the highest respect, &c., I am, &c.,

J. A. C.

LETTER OF HON. M. BLAIR TO THE PRESIDENT, FILED BY JOHN A. CAMALIER.

WASHINGTON, May 26, 1865.

MY DEAR SIR: Mr. John A. Camalier, the bearer of this, is a man of influence in St. Mary's county. He wishes to see you about Mr. Harris's case, and to present some evidence to show the unreliability of the testimony against him. I hope you will see him. I am very much inclined to the opinion that this proceeding against Harris is founded upon an entirely different state of the case from that alleged.

Yours truly,

M. BLAIR.

The PRESIDENT.

ARTICLES FROM THE ST. MARY'S GAZETTE REFERRED TO BY JOHN A. CAMALIER IN HIS LETTER, AND FILED BY HIM WITH THE PRESIDENT.

VISIT TO THE PRESIDENT.

A gentleman of our county who paid a visit to the President a few days ago informs us that he found the new head of the nation to be a gentleman of very accomplished manners, easily accessible, but of great decision of character and of thorough business habits. Our friend was particularly impressed by the attention and courtesy of the President to all who had claims upon his time, and by the forbearance he exhibited in attending to the wants and statements of those who approached him for redress or advice. Though an old political friend of his excellency, we are unwilling to believe that the gentleman in question has been unduly influenced by partisan consideration in making up his favorable estimate of our new President, and we therefore confidently look forward to an administration of public affairs by President Johnson which will satisfy the patriotic instincts of the country and rally around his administration the support of the whole conservative force of the Jeffersonian democracy.

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THE CASE OF MR. HARRIS.

We learn that the proceedings of the court-martial in the case of this gentleman are undergoing the supervision of President Johnson himself, instead of Mr. Stanton, as announced in the papers a few days ago. This news is highly gratifying to the numerous friends of Mr. Harris, and they draw from it the most favorable deductions. The whole case of Mr. Harris has, we learn, been fairly placed before the President, and universal confidence is now entertained, not only that a decision will soon be reached, but that it will restore Mr. Harris to his family and friends without a stain upon his loyalty and without any compromise of his personal dignity or honor.

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RUMORED CABINET CHANGES.

It is currently rumored that Mr. Stanton is about to withdraw from the cabinet of President Johnson, and that the portfolio of the War Office is to be taken by the Hon. Montgomery Blair, of this State. Mr. Blair, it will be remembered, occupied a highly responsible position in the cabinet of the late President, from which he retired, we believe, in deference to the radical wishes of politicians at the time. His acceptance of office under President Johnson at this time we regard as a favorable indication for the future peace and harmony of the country, and we sincerely hope, therefore, that this rumor may turn out to be based upon truth.

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*To the patrons of the Gazette:*

In accordance with previous announcement, I assume, with the present issue, the management and control of the St. Mary's Gazette. In accepting this position, I shall not attempt to define the future political status of this paper, but will simply say to the public that it will be devoted to what I conceive to be the best interests of those who have heretofore given it so generous a support. Indeed, it is not my present intention to give to the Gazette any fixed political existence. To do so, in the present unsettled condition of the country, would not only be taking a plunge into darkness, but would, not unlikely, lead to the promulgation of theories prejudicial, in their tendency, to the interest of our people. When the country shall be restored to its normal condition, and the Constitution of our fathers shall again become the guiding light of those who direct the public affairs of the nation, the Gazette may again become a partisan sheet; and if so, its humble influence will be exerted in behalf of that party which shall most largely contribute to so beneficent a result. Trusting that the future policy of the federal administration may be such as to commend itself to my hearty approval, and with a determination to sustain the government against all public enemies and factious oppositionists, I remain, very respectfully,

JAS. S. DOWNS.

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NATIONAL DEBTS AND UNITED STATES STOCKS.

The creation of national debts is not a modern improvement, but the ability of a great nation to provide for a great debt, to make it the most convenient and best form of personal property, is a modern wonder. The debt of Great Britain was begun by raising a million

sterling by loan in 1692, and when her great contest with Louis XIV was terminated the debt had reached fifty millions. Many statesmen and economists were then alarmed at the great burden which had been imposed upon the industry of the country; but when the war of the Austrian succession had swelled this amount to eighty millions, Macaulay says that historians and orators pronounced the case to be desperate; but when the war again broke out, and the national debt was rapidly carried up to one hundred and forty millions, men of theory and business both pronounced that the fatal day had certainly arrived. David Hume said that although, by taxing its energies to the utmost, the country might possibly live through it, the experiment must never be repeated; even a small increase might be fatal. Granville said the nation must sink under it unless some portion of the load was borne by the American colonies, and the attempt to impose this load produced the war of the Revolution, and, instead of diminishing, added another hundred millions to the burden. Again, says Macaulay, was England given over, but again she was more prosperous than ever before. But when, at the close of her Napoleonic wars, in 1816, this debt had been swelled up to the enormous sum of over eight hundred millions sterling, or four thousand three hundred millions of dollars, or nearly one-half the entire property of the United Kingdom, the stoniest heart, the firmest believer in national development, might well have been appalled. But in the very face of this mountain of obligation, to say nothing of her vast colonial possessions, the property of the British nation has been more than trebled, and her debt is now a charge of but twelve and a half per cent. against it. All that Great Britain has done in paying her debt we shall do, and more, with ours. We have vast territories untouched by the plough, mines of all precious metals, of which we have hardly opened the doors, a population full of life, energy, enterprise, and industry, and the accumulated wealth of money and labor of the old countries pouring into the lap of our giant and ever-to-be-united republic.

During the fiercest and most exhausting of all possible wars, we have demonstrated our national strength, and all the world over, national strength is but another name for national credit. "As good as United States stocks" will soon be synonymous, the world over, with "As good as British consols." For our part, we think a United States treasury note, bearing seven and three-tenths annual interest, is just as much better than British consols as the rate of interest is higher. Some of our timid brethren, who shipped their gold to London and invested in consols, are now glad to sell out and invest at home at a round loss, and serves them right.

LB Ap '13



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